



# California Regulatory Notice Register

REGISTER 2003, NO. 35-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

AUGUST 29, 2003

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

##### AMENDMENT

##### STATE AGENCY:

Department of Food and Agriculture  
Employment Development Department

A written comment period has been established commencing on August 29, 2003, and closing on October 13, 2003. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the

proposed conflict of interest code(s). Any written comments must be received no later than October 13, 2003. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Kevin S. Moen, PhD, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Kevin S. Moen, PhD, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation(s) at a public hearing on or after October 2, 2003 at 9:30 a.m. Written comments should be received at the Commission offices no later than noon on October 1, 2003.

### BACKGROUND/OVERVIEW

In *In re Hanko*, O-02-088 (August 9, 2002), the Commission ratified existing advice that incentive compensation received by a hospital board member, Terilyn Hanko, was attributable to the purchaser of her employer's products, as well as her employer, as a source of the income for disqualification purposes. The issue of disclosure of incentive compensation was not decided in the Opinion, but was reserved for future action by the Commission.

The following regulations together provide the disclosure requirements and rules for reporting incentive compensation.

### REGULATORY ACTION

Amend 2 Cal. Code Regs. § 18703.3: Current regulation 18703.3 deals with both disqualification and disclosure requirements for any public official who receives commission income. The proposed amendment deletes the disclosure requirements related to commission income from the regulation and adds a definition of "incentive compensation."

Adopt 2 Cal. Code Regs. § 18728.5: This regulation addresses disclosure requirements and reporting procedures for both commission income and incentive compensation, including the disclosure requirements previously included in regulation 18703.3.

### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

### AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt,

amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code sections 82030, 87100, 87102.5, 87102.6, 87102.8, 87103 and 87207.

### CONTACT

Any inquiries should be made to Holly Armstrong, Staff Counsel, Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at

<http://www.fppc.ca.gov/index.html?id=351>.

### ADDITIONAL COMMENTS

After the hearing, the Commission may adopt the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO ADOPT RULE 1979.5 BEAT THE ODDS

The California Horse Racing Board (Board) proposes to adopt the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Board proposes to adopt Rule 1979.5, Beat the Odds, of the California Code of Regulations, Title 4, Division 4. The proposed regulation would add a new pari-mutuel wager to those authorized by the Board. A Beat the Odds wager requires the selection of at least three winning runners that are non-favorites in at least three races on a card for a single performance. The selections comprising a Beat the Odds wager may be from consecutive or non-consecutive races.

### PUBLIC HEARING

The Board will hold a public hearing starting at **10:00 a.m., Thursday, October 23, 2003**, or as soon after that as business before the Board will permit, at the **Holiday Inn Monrovia, 924 West Huntington Drive, Monrovia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the



informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on October 13, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions (B&P) Code.

Reference cited: Section 19590, B&P Code.

B&P Code Sections 19440 and 19590 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific section 19590 B&P Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A Beat the Odds wager selects the non-favorite runner in at least three races on the card for a single performance. Because the wager encompasses the entire card, a patron may select non-favorites from every race, or not less than three non-favorites from consecutive or non-consecutive races. If a patron wishes to place multiple combinations of their wager, they may wager on more than one non-favorite in a race. The non-favorite must win in each selected race. If the favorite wins any of the designated races, all wagers that selected the race are losing wagers. The pay-out of the Beat the Odds wager is calculated by identifying wagers that correctly selected at least three winning non-favorite runners. The two-dollar win price of the winning non-favorite runners is calculated for each wager and the wagers with the highest two-dollar win price totals are winners. The pool is distributed equally to holders of the winning wagers. If there are no winning Beat the Odds wagers, the entire net pool is carried over to the next performance and added to that day's net pool. If there are no winning Beat the Odds wagers at the last performance of the meeting, the pool is paid to Beat the Odds wagers with the highest two-dollar win-price for fewer than three races. If the association can not pay out the pool at the last performance of the meeting, the entire net pool,

including any carryover, is put in an interest bearing account until the first performance at the next race meet at the same location. This ensures the pool is eventually paid out.

If a selection is scratched, wagers including the scratched runner will be refunded. Such wagers are refunded as the Beat the Odds wager has no provision to automatically replace scratched horses with another selection. Where a scratched horse is part of the entry or the field, wagers including the scratched horse will not be refunded if any part of the entry or field is a valid starter for pari-mutuel purposes. These wagers are not refunded as coupled horses have, in effect, the same odds. They are considered a single entry. If one horse in a coupled entry is a favorite, the wager is a losing wager.

Wagers selecting one of the runners in dead heats between two or more non-favorite horses will receive the two-dollar win-price for the selected winning runner. However, if one of the horses in a dead heat is a favorite, only those Beat the Odds wagers selecting the non-favorite receive a score equal to the two-dollar win-price. Wagers selecting the favorite lose.

If fewer than three races on a card are run, and the remainder of the card is canceled, the entire Beat the Odds pool is refunded. Any carryover is not refunded as it must be carried over until it can be paid out. If at least three of the races on a card have been run, and the remainder of the card is canceled, wagers selecting any of the completed races will be paid in accordance with subsection 1979.5(g). However, the pay-out will only be for that performance's net pool. This is because the pay-out is for a partial day. Carryovers are only paid for a full day's performance. If there are no winning wagers under the application of subsection 1979.5 (g), all Beat the Odds wagers, including wagers not selecting any completed races are refunded.

#### DISCLOSURES REGARDING THE PROPOSED ACTON

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed Rule will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed regulation will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to adopt Rule 1979.5 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. The Rule adds a new pari-mutuel wager to those authorized by the Board.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone: (916) 263-6033  
Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

#### NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and



Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **October 16, 2003** at 10:00 a.m. in the Auditorium of the State Resources Building, 1416 Ninth Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **October 16, 2003** following the Public Meeting in the Auditorium of the State Resources Building, 1416 Ninth Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **October 16, 2003** following the Public Hearing in the Auditorium of the State Resources Building, 1416 Ninth Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

#### NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on October 16, 2003.

#### 1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS Chapter 4, Subchapter 7, Article 7

#### Section 3301(e) and (f) **Pressure Testing of Pipes and Other Containers**

#### 2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS Chapter 4, Subchapter 7, Article 98 Sections 5001(b) and 5008(b) **Use of Signals and Operating Practices-Cranes**

A description of the proposed changes are as follows:

#### 1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS Chapter 4, Subchapter 7, Article 7 Section 3301(e) and (f) **Pressure Testing of Pipes and Other Containers**

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a Memorandum from the Division of Occupational Safety and Health (Division), dated May 8, 2003, with attachments, to revise Section 3301 of the General Industry Safety Order (GISO).

Existing Section 3301 addresses hazards associated with the use of compressed air or gasses by requiring specific controls, such as limits on air or gas pressures, mechanical safe guards, and personal protective equipment. Excluded from this section is a requirement that addresses the hazard of over pressurizing pipes and containers with compressed air or gas. Requirements regarding the over-pressurization of any object are located in Section 560(c) of the Unfired Pressure Vessel Safety Orders (UPVSO).

Given that the requirements in the UPVSO are limited in their application to unfired pressure vessels and are not readily recognized or widely known to general industry employers, a revision is proposed to add new subsection (f) to Section 3301 which specifically addresses pressure testing of any object to ensure that employees are not seriously injured by a ruptured vessel or container.

Additionally, an amendment is proposed to delete the word "hazardous" from the term "hazardous material" in Section 3301(e) for consistency with Section 560(c) of the UPVSO. The qualifying term "hazardous" is not used in Section 560(c), thus prohibiting all substances, not just those classified as "hazardous", to be transferred using compressed gas unless the containers into which they are being transferred to are designed to withstand the pressurized transfer.

Section 3301. Use of Compressed Air or Gases.

Existing Section 3301 addresses hazards associated with compressed air or gasses by requiring specific controls, including limits on air or gas pressures when employees use compressed air to blow dirt, dust, chips, etc. from their clothing, mechanical safe guards, the use of abrasive blasting nozzles, etc.

Existing Section 3301(e) states that compressed gasses shall not be used to elevate or otherwise transfer any hazardous substance from one container to another unless the containers are designed to withstand, with a factor of safety of at least four, the maximum possible pressure that may be applied. It is proposed to delete the word “hazardous” from the term “hazardous substance” for consistency with the terminology used in Section 560(c) of the UPVSO. The proposed revision will prohibit all substances, not just those classified as “hazardous”, from being transferred using compressed gas unless the containers into which they are being transferred to are designed to withstand the pressurized transfer.

It is also proposed to add a new Subsection (f) which requires pressure testing of any object to be in accordance with Section 560(c) and (d) of the Unfired Pressure Vessel Safety Orders. The revision will ensure that employers comply with safe pressure testing procedures as specified in Section 560(c) and (d) of the UPVSO.

**COST ESTIMATES OF PROPOSED ACTION**

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standard.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention

of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A description of the proposed changes are as follows:

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS  
Chapter 4, Subchapter 7, Article 98  
Sections 5001(b) and 5008(b)  
**Use of Signals and Operating Practices-Cranes**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

This proposed rulemaking action is being initiated upon Board staff review of the language contained in GISO Section 5008(b), which requires that the operator of a crane respond to signals from only the appointed signal person, but shall obey a stop signal at any time. Board staff believes the current language in subsection (b) is unclear as to who may communicate a stop signal to the crane operator. As it currently reads, the sentence in subsection (b) appears incomplete, creating confusion as to whether only the appointed signal person can communicate a stop signal to the crane operator or anyone on the jobsite. Following consultation with representatives from the North American Crane Bureau, the Division of Occupational Safety and Health's Crane Unit, and crane operations experts including marine terminals, Board staff determined that the current industry practice is to ensure that hazardous contact between an employee and the crane and/or its hoisted load does not occur by requiring the crane operator to respond to a stop signal from any person in order to immediately stop the motion of the crane.

Board staff proposes a technical amendment to Section 5008(b) to clarify to the employer that the stop signal can be issued by persons other than the appointed signal person, i.e., "any person". In order to ensure that there is no conflict between the proposed amendment and an existing requirement in Section 5001(b), which states that only qualified persons shall be permitted to give signals, an "exception" is proposed to Section 5001(b) to clarify that a stop signal may be given by any person, consistent with what is proposed in Section 5008(b).

Section 5001. Signals.

This section contains regulations that address the use of a signal person or signaling or control device needed to direct the operation of a crane safely. Subsection (b) specifies that only qualified persons are permitted to give signals. A revision is proposed to add an "exception" to this requirement permitting stop signals to be given by any person. The proposed

revision will ensure that Section 5001(b) is consistent with the proposed amendments to Section 5008(b), see below, and that any person who observes a potentially hazardous condition involving a crane operation may signal the crane operator to stop the movement of the crane.

Section 5008. Operating Practices.

This section contains regulations pertaining to operating practices specific to cranes, including but not limited to: storing loose materials and personal effects, responding to signals from an appointed signal person, use of warning signals, and leaving the crane unattended.

Subsection (b) requires the crane operator to respond to signals only from the appointed signal person, but to obey a stop signal at any time.

A revision is proposed to clarify that in addition to the appointed signal person, any person may communicate a stop signal to the crane operator, which must be obeyed. It is also proposed to delete the phrase "at any time" as unnecessary. The proposed revision will ensure that any person who observes a potentially hazardous condition involving a crane operation may signal the crane operator to stop the movement of the crane, and that this stop signal must be obeyed by the crane operator.

**COST ESTIMATES OF PROPOSED ACTION**

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."



**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standard.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendment may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention

of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than October 10, 2003. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on October 16, 2003 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## **TITLE 10. DEPARTMENT OF CORPORATIONS**

### **NOTICE IS HEREBY GIVEN**

The Commissioner of Corporations ("Commissioner") proposes to amend a regulation under the CORPORATE SECURITIES LAW OF 1968 relating to entity conversion transactions. The Commissioner proposes to amend Section 260.121 of the California Code of Regulations. (10 C.C.R. § 260.121).

### **PUBLIC HEARING**

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Corporations, addressed to Kathy Womack, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m. on October 13, 2003. Written comments may also be sent to Kathy Womack (1) via e-mail at [regulations@corp.ca.gov](mailto:regulations@corp.ca.gov) or (2) via fax (916) 322-3205.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Section 260.121: Under the Corporate Securities Law of 1968 ("CSL"), it is unlawful for any person to offer or sell a security in the State of California in an issuer transaction unless such sale has been qualified or is exempt or not subject to qualification. It is also unlawful for any person to offer or sell any security in an "entity conversion transaction" unless the security is qualified or exempt. (Cal. Corp. Code § 25120). In order to qualify a security offering, an application for qualification must comply with Corporations Code Section 25121 and regulations promulgated thereunder.

Section 260.121 of the Commissioner's rules sets forth an application form for the qualification of securities transactions under Corporations Code Section 25120, but the application form does not include entity conversion transactions. The Commissioner proposes to amend the qualification application form in Section 260.121 to include entity conversion transactions.

The Commissioner also proposes clarifying changes to Section 260.121 to update the form for entities that are not organized as a corporation seeking to qualify securities.

### **AUTHORITY**

Corporations Code Sections 25610 and 25612.

### **REFERENCE**

Corporations Code Sections 25005.1, 25120, and 25121.

### **AVAILABILITY OF MODIFIED TEXT**

The text of any modified regulation, unless the modification is only nonsubstantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION/INTERNET ACCESS**

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 36/01-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request document PRO 36/01-C. These documents are also available at [www.corp.ca.gov](http://www.corp.ca.gov). As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed at the web-site listed above.



#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Other non-discretionary cost or savings are imposed on local agencies: None.

#### DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not impose a mandate on any local agency or school district or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within California; or (3) the expansion of businesses currently doing business within the State of California.

#### COST IMPACTS OF REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department is not aware of any new costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulatory action merely implements clarifying changes to a form.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations will not affect small business. This regulatory action simply makes clarifying changes to an already existing form.

#### CONTACT PERSON

Nonsubstantive inquires concerning this action, such as requests for copies of the text of the proposed regulations or questions regarding the timelines or

rulemaking status, may be directed to Kathy Womack at (916) 322-3553. The backup contact is Karen Fong at (916) 322-3553. Inquires regarding the substance of the proposed regulation may be directed to Kimberly Willy, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814-4052, (916) 324-9687.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 220 and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206 and 220 of said Code, proposes to amend sections 1.17, 1.59, 2.09, 2.10, 5.00, 5.50, 5.75, 7.00, 7.50, 8.00, 27.60, 43 and 195, Title 14, California Code of Regulations, regarding Sport Fishing Regulations for 2004–2006.

### INFORMATIVE DIGESTS/POLICY STATEMENT OVERVIEW

#### Sections 1.17, 1.59, 27.60 and 195 Party Boat Trip Limits

Under existing regulations, recreational anglers fishing in waters of the Ocean and San Francisco Bay District (described in Section 27.00, Title 14, CCR) (ocean waters) are subject to individual daily bag and possession limits that include a general 20-finish daily bag and possession limit overall and other daily bag and possession limits specific to individual species of finfish [Sections 27.60 and 27.85 through 28.59, Title 14, California Code of Regulations (CCR)]. Also, under existing regulations, some species of fish have no daily bag limit (any number may be taken) [Subsection 27.60(d), Title 14, CCR]. Once a person has caught an authorized daily bag limit of fish, that person is supposed to stop fishing for that species. However, while not presently authorized, it has been common practice for anglers that have already caught a daily bag limit of a finfish aboard a boat to keep fishing to help fill the daily bag limit of other anglers aboard that have not yet caught a limit of fish.

Also, existing regulations require owners and operators of commercial passenger fishing vessels (CPFVs) to record information about each fishing trip, including numbers of anglers, fishing location, and fish caught aboard the CPFVs on logbooks, and provide that information to the Department (Section 195, Title 14, CCR). Existing regulations also specify that fish may not be taken or possessed by CPFV

passengers, or the vessel owner or operator in excess of the individual daily limits prescribed in sport fishing regulations.

Proposed regulation changes would authorize what are commonly termed daily “boat bag limits” or simply “boat limits” by allowing anglers aboard vessels to continue to fish after they have taken their individual daily bag and possession limits, until the daily bag limit for all authorized anglers aboard a vessel is filled [Amends Sections 1.17, 1.59, 27.60, and 195, Title 14, California Code of Regulations (CCR)]. Generally, boat limits are calculated as the daily bag limit for a species or species group of fish times the number of anglers authorized to fish on a vessel.

The proposed changes would authorize daily boat limits for anglers aboard any vessel in ocean waters. Under the proposed regulation changes, those anglers who do not wish to continue to catch fish after they have taken their own daily bag limit(s) may choose to either stop fishing at that point, or continue to help catch fish for others who do not have a daily bag limit of fish, including hooking fish and passing the rod and reel to others to fight and land the fish, until the boat limit is achieved. An authorization for anglers to continue to fish until a boat limit is taken does not allow individual anglers to possess more than their individual daily bag limit for any species of finfish. Once a fishing trip is completed and anglers have disembarked from a vessel, an angler may only possess one daily bag limit of a species, unless the vessel is fishing under a Declaration of Multi-Day Fishing Trip filed with the Department pursuant to Section 27.15, Title 14, CCR.

Five alternatives that would authorize boat limits aboard CPFVs are being provided for Fish and Game Commission (Commission) consideration. These alternatives either authorize the operator(s) and crew members on a vessel to be included with the number of passengers authorized to fish when calculating boat bag limits for a fishing trip, or prohibit the operator(s) and crew members from being included when calculating boat limits. Also, these alternatives either allow or prohibit the operator(s) and crew members from catching and/or keeping fish during a trip towards achieving the boat limits or possessing fish at the end of a trip.

Other provisions are being considered under alternatives that would authorize boat limits as follows:

- An authorization to take and possess boat limits does not apply to fishing trips originating in California where fish are taken in another jurisdiction. This change is needed to assure that California’s sport fishing regulations do not inadvertently conflict with those of other jurisdictions, and that

California’s boat limits are applicable only to angling from vessels in the waters off California.

- For each trip, the number of passengers, operator(s), and crew members are required to be recorded separately on the vessel logbook under “number of fishers” and next to the vessel operators’ signature, respectively. This change will help assure that enforcement staff can distinguish between the number of passengers and operator(s)/crew members for purposes of calculating the authorized boat limits aboard a vessel.
- Upon completion of a sport fishing trip, persons authorized to take fish on that trip may not possess more than the authorized daily limit taken under a boat limit. This change will ensure that enforcement staff can determine whether the daily bag limit provisions for each species and species group has been complied with by individuals at the completion of a fishing trip.
- A fishing trip is completed at the time a person disembarks from the vessel. This change will help ensure that passengers, crew, and enforcement staff clearly understand at what point the trip is technically completed and persons will be accountable for violations of individual daily bag limits.
- Species and species groups for which no bag and possession limit exists are not included in the boat limit. This change will ensure that operator(s), crew members, passengers, and Department staff understand that species for which no bag limits presently exist are not involved in the calculation of a boat limit.
- Where boat limits are provided for in Section 195, the vessel operator(s) and crew members may be cited for violations occurring aboard the vessel, including, but not limited to violations of overlimits, possession of prohibited species, minimum size limits, and fish taken out of season or in closed areas. This change will help further clarify in regulation that the vessel operators and crew members, who are the primary persons handling fish aboard their vessels, are also primarily responsible for ensuring compliance with sport fishing regulations aboard their vessel.

Also, changes proposed in existing regulations governing CPFV logbooks would add and clarify provisions regarding identification, completion, availability, inspection, and confidentiality of CPFV logbooks. The proposed regulation changes also clarify that fish may not be taken or possessed by CPFV passengers, or the vessel owner or operator in violation of sport fishing regulations including taking more than the authorized individual daily limits prescribed in regulation.

Minor editorial changes are also proposed to improve the clarity and consistency of the regulations.

### **Section 2.09—Re: Possession of Illegal Gear**

Current regulations prohibit the use or possession of any landing gear, nets, gaffs, or spears in or within 100 yards of any stream in Mendocino, Monterey, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, and Sonoma counties. Some anglers prefer to use landing type dip nets to assist in landing salmon or steelhead when fishing in rivers or streams. Landing nets often prevent injuries to fish that are being landed in rocky areas, or from a boat. The current regulations prohibit any landing gear or nets in or near streams in specified counties. The Department is proposing to expand the prohibition of any landing gear, nets, gaffs or spears to all inland waters statewide, including lakes and reservoirs, but allow the use or possession of standard landing type dip nets in inland waters, if dip nets do not exceed 36 inches in greatest dimension, excluding the handle.

In 2001, the regulation prohibiting the use of underwater viewing devices in the South Central District was eliminated in the interest of regulation simplification. Since that time, Department enforcement personnel have identified instances of illegal use of underwater viewing devices and have requested the prohibition of underwater viewing devices used in inland waters for taking. A popular illegal method of taking salmon and steelhead incorporates a face mask or other underwater viewing device and a spear or large hook. Current regulations do not specifically prohibit the use or possession of underwater viewing devices for the purpose of taking fish. The Department is proposing to add underwater viewing devices to Section 2.09 that identifies illegal gear, except when legally spear fishing in waters authorized by Section 2.30.

### **Section 2.10—Fishing Methods Restrictions**

Current regulations define the term “hook gap”, and restrict hook gap sizes and length of shanks on hooks that anglers may use in inland waters of the State. Existing regulations also restrict various methods of attaching hooks and certain weights. The current Section 2.10 inadvertently allows the use of some types of gear that are highly effective for illegally snagging salmon, while making illegal some traditional striped bass and sturgeon fishing gear. The Department is proposing to further simplify hook size and lure weight restrictions by establishing consistent regulations for the majority of waters throughout the State, while preventing the use or possession of some of the more blatant snagging gear.

Current regulations for rivers and streams restrict maximum hook sizes at 5/8 inch for single hooks and 1/2 inch for multiple hooks. This regulation inadvert-

ently prevents the use of some traditional sturgeon and striped bass gear. Current regulations also allow the use of a 5/8 inch multiple hook on a manufactured lure exceeding 1/2 ounce. Multiple hooks with a gap greater than 5/8 on manufactured lures exceeding one ounce are considered to be highly effective gear for illegal snagging in rivers and streams. In addition, the current regulations prohibit the use of hooks greater than 1/2 inch on buoyant lures. Buoyant lures are not an effective snagging tool and are frequently used by salmon, steelhead, and striped bass anglers.

With the combined goals of simplifying angling regulations while continuing to protect the State’s fishery resources, the Department is proposing the following amendments to current regulations:

In all rivers and streams except the Sacramento-San Joaquin Delta, and the Colorado River, it is unlawful to:

1. use any multiple hook with a gap greater than 3/4 inch,
2. use any hook with a shank longer than 2 inches,
3. use any hook directly or indirectly attached closer than 18 inches to any weight exceeding 1/2 ounce,
4. use any multiple hook or more than one single hook on non-buoyant (sinking) lures exceeding one ounce,
5. attach any weight below a hook.

These amendments establish one maximum size for multiple hooks in all rivers and streams, and prohibit the use of some of the more effective snagging gear while allowing the use of traditional angling gear by the majority of sport anglers.

### **Section 5.00—Definition of Sacramento-San Joaquin River Delta**

Current regulations define the eastern boundary of the Sacramento-San Joaquin River Delta as all rivers, sloughs, canals, cuts, forebays, and flooded islands west of Highway 99. Current and proposed regulations also permit more liberal hook-size and gear restrictions in Delta waters than in rivers upstream of the Delta. In a separate recommendation, the Department is proposing to prohibit some of the types of gear permitted in the Delta from approximately 14 miles of the lower Mokelumne River, between Highway 99 and Interstate 5. The purpose of this restriction is to protect salmon and steelhead in more vulnerable confined river habitats from the type of gear that is effective for catching striped bass and sturgeon in larger and more expansive waters. Some of this gear has been used in the past by poachers to illegally snag salmon and steelhead in the lower Mokelumne River where fishery managers are attempting to restore those populations. Readjusting the western boundary of the Delta as defined in Section 5.00, and referencing the Delta



definition in other sections, will increase protection of salmon and steelhead while continuing to maintain Delta fishing opportunities.

**Section 5.00 and Subsection (b)(195.5) of  
Section 7.50—Trout Lake (Siskiyou County)**

Trout Lake is located within the Shasta Valley Wildlife Area (SVWA) in Siskiyou County. Current special fishing regulations provide for trout and black bass angling only on Wednesdays and weekends from April 1 through September 30. Department wildlife personnel at SVWA have determined that early season angling activity at Trout Lake is significantly impacting waterfowl nesting success. Department personnel have documented Canada geese permanently abandoning their nests at multiple locations on Trout Lake. In early to mid April during the 2002 angling season at Trout Lake, DFG personnel documented Canada goose nesting failures at twenty-three (23) of thirty (30) nesting platforms for a nesting failure rate of just over 75%. The primary reason for these nest failures was determined to be abandonment of the nest by adults that were driven off the nests by angler activity on Trout Lake. Goose nesting activities typically continue through the third week of April at Trout Lake.

The proposed regulation change would delay the special trout and black bass angling season opening date from April 1 to the last Saturday in April. This recommended change will eliminate human interference with goose and duck nesting activities on Trout Lake and substantially improve waterfowl production on the lake.

**Section 5.00—Diamond Valley Lake and  
Perris Lake Black Bass Regulations**

Current statewide general regulations for black bass provide for a daily bag of five fish with a minimum size limit of 12 inches in total length, unless otherwise specified in special regulations. Diamond Valley Lake is currently managed according to general black bass regulations. The Department is proposing to impose a 15-inch minimum size limit and a five-fish daily bag limit for largemouth bass at Diamond Valley Lake. In addition, this proposal recommends that smallmouth bass have a zero (0) bag limit at Diamond Valley Lake.

Lake Perris is currently regulated under special black bass regulations that restrict the minimum size to 15 inches and the daily bag limit to two fish. The Department is proposing to remove the special black bass regulations and manage Lake Perris under the statewide general regulations for black bass where the minimum size limit is 12 inches total length and the daily bag limit is 5 fish.

**Section 5.50—Mountain Whitefish Bag Limit**

The current regulations identify mountain whitefish, establish the open season, and set the bag limit at fifteen. The Department proposes to amend current regulations by reducing the bag limit for mountain whitefish from fifteen to five.

The mountain whitefish is a native salmonid game fish found in the Truckee, Carson and Walker River drainages of the eastern Sierra. Based on fishery surveys conducted by the Department and by experts in the academic community, the abundance and distribution of mountain whitefish is clearly diminished from historic levels. In the nineteenth and early twentieth centuries mountain whitefish were so abundant that commercial fisheries for them existed. Remaining whitefish populations have been fragmented by dam building and other habitat alterations. The existing mountain whitefish bag limit of 15 was established decades ago when bag limits for trout and other game fish species were higher than present. Conservation of this native species is now more of concern for fisheries managers than in the past.

The Department believes a more conservation-oriented fishery management approach is warranted that will reduce any potential impact that angling harvest may have on mountain whitefish populations. Also, because mountain whitefish is generally targeted by trout anglers in traditional trout waters, reducing the daily bag limit to five fish will make the whitefish bag limit consistent with general trout bag limits, thus simplifying angling regulations.

**Section 5.75—Striped Bass at Lake Elsinore,  
Riverside County**

The proposed regulation change will enable the Department to use striped bass as a means of controlling carp and threadfin shad populations in Lake Elsinore, Riverside County. The existing regulations Section 5.75, Title 14 CCR, places bag and size limits on striped bass caught in California. The statewide general regulation is a bag limit of 2 and a minimum size of 18 inches, except in the Colorado River District, the Southern District and New Hogan, San Antonio and Santa Margarita lakes in which the bag limit is 10 and there is no minimum size limit. In an effort to insure the striped bass are effective at controlling the shad and carp we are proposing to restrict the harvest of striped bass in Lake Elsinore.

The existing regulation would be modified for the more restrictive general regulations to be applied at Lake Elsinore in the Southern District. The harvest of striped bass in Lake Elsinore would be limited to existing statewide regulation of a two-fish bag limit and a minimum total length of 18 inches.

### **Sections 7.00 and 7.50—Open Fishing Season in Inyo County**

Under the current general regulation for lakes and streams in Inyo County (subsection (b)(3) of Section 7.00, and numerous subsections of Section 7.50), the open fishing season is from the last Saturday in April through October 31. The Department is recommending that the Commission extend the open season specified in these regulations to include the first two weeks in November. The change will bring the Inyo County trout season into conformity with that of neighboring Mono County and for most other Sierra District streams, which currently have open fishing seasons from the last Saturday in April through November 15.

The Department's recommendation is based on a request made by the Inyo County Board of Supervisors (Board), that the open season for all Inyo County lakes be extended to include all of November. The Board's request was based on their desire to promote the county's tourism-oriented economy.

The Department believes that extending the fishing season from October 31 to November 15, in certain waters of Inyo County has the potential to both increase angling opportunity and benefit the local economy, with no detrimental effects on the fisheries.

### **Sections 7.00 and 7.50—Steelhead Season in the South Central District**

Current angling regulations in the South Central Fishing District provide for steelhead fishing during November 15 through February 28 but only on Saturdays, Sundays, Wednesdays, legal holidays and opening and closing days. Creel and angler survey data indicate that few adult steelhead (greater than 16 inches in length) are caught before December 1. Nearly all of the fish caught prior to December 1 are juvenile steelhead less than 11 inches in length. In order to prevent juvenile steelhead angling mortality during November, and to readjust the winter steelhead season to better coincide with adult steelhead migration timing, the Department is proposing that the opening of the winter steelhead season in the South Central District be delayed until December 1. In order to maintain fishing opportunities, the Department is also proposing to extend the end of the steelhead season from February 28 to March 7.

In addition, this proposal corrects some errors and/or clarifies descriptions of stream sections noted in the List of Waters with Special Fishing Regulations for trout and salmon. These waters include: Aptos Creek (Santa Cruz Co.), Arroyo Seco River (Monterey Co.), Big Sur River (Monterey Co.), Nacimiento River (Monterey & San Luis Obispo

Counties), Pescadero Ck. and tributaries (San Mateo & Santa Cruz Co.), Salinas River and tributaries (Monterey and San Luis Obispo Counties), San Gregorio Ck. (San Mateo Co.), and Waddell Creek (Santa Cruz Co.).

### **Section 7.50—San Joaquin, Stanislaus, Tuolumne, and Merced Rivers**

#### **1. Salmon season extension:**

Current regulations on the San Joaquin River from the Highway 140 bridge downstream to the Highway 132 bridge, on the Merced River from Schaffer bridge on Montpelier Road downstream to the mouth, on the Tuolumne River from the Hickman bridge to the mouth, and on the Stanislaus River from the Highway 120 bridge in Oakdale to the mouth provide for a daily bag limit of one salmon from January 1 through October 15. The salmon limit is zero from October 16 through December 31. Because salmon populations have improved significantly during the past ten years, the Department is recommending a slight increase in the number of salmon allowed to be harvested in the San Joaquin, Merced, Tuolumne and Stanislaus rivers. This proposal recommends extending the period when one salmon per day may be taken for an additional two weeks from October 15 to October 31 in those river reaches identified above.

#### **2. Regulation clarification**

Current regulations identify a section of the Middle Fork Stanislaus River from the U.S. Forest Service footbridge at Spring Gap at New Melones Reservoir including Sand Bar Forebay as having a daily bag limit of two trout instead of the general district regulation of five trout per day. The purpose of the reduced bag limit is to prevent excessive harvest of a self-sustaining trout population in this reach of the Middle Fork Stanislaus River. Sand Bar Forebay is about a 10 surface-acre body of water that is formed by a diversion canal off of the Middle Fork Stanislaus River. Since Sand Bar Forebay is not directly connected to the main stem Middle Fork Stanislaus River, anglers have been confused as to whether the general daily bag limit regulations apply or the reduced bag limit identified in the special fishing regulation subsection 187(C) are applicable to this body of water. As a result of this confusion, the local court (Sonora Court) dismisses all citations involving violations at the Sand Bar Forebay. The Department recommends omitting the reference to Sand Bar Forebay from subsection 7.50(187)(C). This recommendation would have no adverse effect on trout populations in the main stem Middle Fork Stanislaus River.



### **Section 7.50—Upper Owens River Sport Fishing Restrictions**

The upper Owens River (the portion of the Owens River upstream from Crowley Lake) is primarily divided into two separate management areas, with differing sport fishing restrictions, as follows:

- (i) The 21-mile-long portion of the upper Owens River from highway 395 downstream to the Benton Bridge road crossing: This reach of the upper Owens River is a Commission-designated Catch-and-Release Water, and is known as the “catch-and-release area”. Sport fishing regulations for this area allow fishing from the last Saturday in April through November 15 with a two-trout daily bag limit, and a maximum size limit of 16 inches total length. Special fishing methods restrictions for this area allow anglers to use only artificial lures with barbless hooks.
- (ii) The adjacent three miles of the upper Owens River, from Benton Road crossing downstream to the fishing monument, located approximately 1/4 mile upstream from Crowley Lake: This area is stocked regularly with catchable trout and managed as a put-and-take fishery. Sport fishing regulations for this area allow fishing from the Saturday preceding Memorial Day through September 30 with a five-trout daily bag limit, no size limit, and no special fishing methods restrictions.

The Owens River, for many years, has sustained one of the most popular and famous trout fisheries in the State. It is extremely important to the many and diverse recreational anglers who travel to Mono County to fish the Owens River, the only river system in the Eastern Sierra, and as such, it is critically important to the well-being of the tourism-based Mono County economy. To address the diverse needs and preferences of the angling public who use this area, the Department has intensively studied and managed the fisheries of Owens River drainage. Regulations developed by the Department are intended to provide the greatest opportunity for the greatest number of diverse constituents using the river based on sound biological findings from those studies. The Department believes the current regulation on the upper Owens River from Benton Bridge road crossing downstream to the fishing monument is unjustified and too restrictive. The Department recommends that in this area the open fishing season would be from the last Saturday in April through November 15, with a five-trout daily bag limit, no size limit, and no special fishing methods restrictions.

### **Section 7.50—Smith River Special Angling Regulations**

The current angling regulations for the Smith River have caused some confusion to anglers because of how the stream reaches are organized in the regulatory language. The current regulation divides the Smith River basin into upper and lower drainage sections rather than the customary sub-basin or tributary method. All other streams in the special fishing regulation section (7.50) list angling regulations in stream reaches oriented from downstream to upstream. The proposed regulation reorganizes the order presentation of the various stream sections from downstream to upstream without changing any seasons or bag limits. This change will make the regulatory language more consistent, therefore, easier to understand by the angling public.

### **Section 7.50—South Central Sport Fishing District Regulations, Adding Steelhead Waters**

Current regulations in known steelhead waters of the South Central Sport Fishing District are directed at providing catch-and-release angling opportunities for adult steelhead during December through February. Trout fishing during the summer general trout season in steelhead streams is prohibited. Recent information has identified five additional streams in the South Central Sport Fishing District as possible steelhead streams that are currently not regulated under steelhead angling regulations. These streams are currently regulated under the general trout season which allows for the harvest of 5-trout per day. To prevent unnecessary mortality on ESA-listed juvenile steelhead and to cooperate with NOAA-Fisheries in the protection and recovery of threatened steelhead, the Department is proposing a regulation change to prohibit summer trout fishing and allow no-harvest angling during the winter steelhead season from December 1 through March 7 in the following five streams: 1) Codornices Creek (Alameda Co.), 2) Coyote Creek downstream from Upper Penitencia Creek (Santa Clara Co.), 3) Upper Penitencia Creek (Santa Clara Co.), 4) Pinole Creek (Contra Costa Co.) and 5) Stevens Creek downstream of Stevens Reservoir (Santa Clara Co.). During this period fishing would be allowed only on Saturdays, Sundays, Wednesdays, legal holidays and opening and closing days. Only barbless hooks could be used. This proposed change will make regulations in the above streams consistent with other steelhead streams in the South Central Sport Fishing District.

### **Section 7.50—Feather River Salmon and Steelhead**

Sacramento River system spring-run Chinook salmon are listed as threatened under both State and federal endangered species acts. Although the popula-

tion has remained stable in recent years, the spring-run Chinook population remains below levels defined for recovery of the run.

Current regulations in the Feather River allow angling for spring-run Chinook salmon, and based on recent angler survey results, approximately 2,000 spring Chinook are harvested in the Feather River by anglers during the period April through June. During January 1 through September 30, up to 3 salmon per day are allowed to be harvested from the Highway 70 Bridge to the mouth of Honcut Creek, and 2 salmon per day from the mouth of Honcut Creek to the Feather River mouth.

The Department is concerned that the present harvest level of spring-run Chinook salmon in the Feather River is too great to effect recovery for this threatened species. This concern is supported by the inability of Feather River Hatchery to meet its egg production goal of 7 million eggs because of insufficient numbers of spawners. Last year, the spring-run Chinook egg-take was 2.3 million eggs, only 33 percent of the goal.

To accomplish reduced harvest of spring-run Chinook salmon in the Feather River, the Department is recommending the closure of some areas to fishing and reducing the bag limit during the period when spring-run Chinook are most vulnerable to angling. These changes include: (a) prohibit angling from the Table Mountain bicycle bridge to the Highway 70 Bridge during March 1 through December 31, and (b) from the Highway 70 Bridge to the Feather River mouth, reduce the salmon bag limit to 0 during March 1 through July 31. Under the proposed regulations, anglers will still have the opportunity to catch and retain 3 Chinook salmon during the peak fishing months of August and September.

This proposal also includes simplifying the regulations by eliminating one river reach defined in the current regulations and establishing a boundary between the lower and middle river sections at the Highway 20 bridge instead of Honcut Creek. This reduces the length of the lower reach by approximately 10 miles, however, the proposed bag limit is increased from 2 to 3 salmon, for consistency with the other sections.

The Department is also proposing to increase the bag limit of steelhead from 1 to 2 hatchery trout or hatchery steelhead. There is a surplus of hatchery-steelhead spawners that should be made available for angler harvest.

#### **Section 7.50—Silver King Creek**

Current regulations prohibit fishing in Silver King Creek and tributaries, including lakes, above Llewellyn Falls all year. The current regulation was designed to protect the native Paiute cutthroat trout, which are

listed as threatened pursuant to the federal Endangered Species Act, in a portion of its existing range above Llewellyn Falls. Current regulations for Silver King Creek and tributaries downstream of Llewellyn Falls provide for trout fishing from the last Saturday in April through November 15, with a five-fish daily bag limit and ten-fish possession limit. Angling is permitted downstream of Llewellyn Falls where nonnative trout exist and compete with native Paiute cutthroat trout.

The Department is proposing to implement a Paiute cutthroat trout restoration project in Silver King Creek downstream of Llewellyn Falls, and is recommending the closure of the restoration area to fishing. In addition, the Department is proposing to open 1 ½ miles of the currently closed reach of Silver King Creek upstream of Llewellyn Falls to zero limit, catch-and-release angling during July 1 through September 30 to provide continued fishing opportunities within the Silver King Creek drainage. Other existing portions of the watershed currently closed to angling would remain closed.

#### **Section 8.00—North Coast Low Flow Restrictions**

During the period from October 1 through January 31, current regulations allow the Department to close stream reaches to fishing within the Eel River, Mad River, Mattole River, Redwood Creek, Smith River, and Van Duzen river systems when the stream flows at designated USGS gauging stations fall below the minimum flow set forth in regulations. Current regulations require that on Monday, for the period of Tuesday through Thursday, and on Thursday, for the period of Friday through Monday, stream flows are evaluated to determine if a stream should be open or closed to fishing. This regulation was enacted to reduce the vulnerability of adult Chinook and coho salmon and adult steelhead trout to excessive fishing activity during fall and winter low-flow periods. Because rapidly changing stream flow conditions can affect the vulnerability of migrating salmon and steelhead to angling, the Department is proposing to evaluate stream flows an additional day each week. Stream flows would be evaluated to determine if a stream reach should be open or closed to fishing on Monday, for the period of Tuesday and Wednesday; on Wednesday, for the period of Thursday and Friday; and on Friday, for the period of Saturday through Monday.

In addition, current regulations require fishing closure of a river reach if flows are less than the designated minimum flow on the scheduled flow-determination day and time. Current regulations also allow the Department to reopen a stream during the period of closure if the designated minimum flow is exceeded and the Department is reasonably assured

that stream flows will increase above the designated minimum flow before the next flow determination day. However, current regulations do not allow the Department to close a stream if the Department is reasonably assured that flows will fall below designated minimum flows before the next flow-determination day. To provide additional protection for adult Chinook and coho salmon and adult steelhead during periods of low stream flows, the Department is proposing regulations that allow the closing of a stream if minimum stream flows are expected to occur before the next stream-flow-determination day.

Current Mad River low-flow regulations identify the County Road Bridge at Maple Creek as the upper boundary that would be closed to fishing during periods of low stream flow, while angling regulations identify the upper boundary eight miles farther upstream at the confluence of Cowan Creek. Hence, during potential low flow angling closures from October 1 through January 31, the Mad River from near its mouth upstream to the County Road Bridge at Maple Creek could be closed to angling while the 8-mile river reach from the County Road Bridge at Maple Creek upstream to Cowan Creek remains open to fishing. The Department recommends extending the Mad River low-flow section from the County Road Bridge at Maple Creek upstream to the confluence of Cowan Creek to coincide with the section of stream defined in the special fishing regulations.

#### **Section 8.00—Low-flow Restrictions for South Central Coast Streams**

Current regulations require the Department to close the main stem Carmel River to fishing when stream flows are less than 135 cubic-feet-per-second (cfs). Low-flow closures are generally put in place to avoid excessive and repetitive catch-and-release angling pressure on steelhead that may be trapped in individual pools because stream flows are inadequate to allow them free passage upstream. Low-flow conditions generally occur during years of below normal rainfall.

In order to avoid excessive angler contact of steelhead during low stream flow conditions in the Carmel River and other anadromous streams of the South Central Sport Fishing District, the Department is proposing the following low-flow fishing closures:

1. Carmel River, reduce the low-flow closure trigger from 135 cfs to 80 cfs. The low-flow closure on the Carmel River will be applied to four adjacent creeks, San Jose, Gibson, Malpaso, Soberanes.
2. Big Sur River, a 40 cfs low-flow closure. Low flow closures on the Big Sur River would also apply to all other coastal streams of the Big Sur coast in Monterey County from Granite Creek south to Salmon Creek.

3. Pajaro River and all its tributaries (between 40 to 150 cfs).
4. Salinas River, lower main stem below its confluence with the Arroyo Seco River (between 40 to 250 cfs).
5. Arroyo Seco River based on both the USGS Arroyo Seco gauge near Greenfield (between 40 to 150 cfs) and at the Spreckels gauge in Monterey County (between 40 to 250 cfs).
6. Aptos and Soquel creeks (between 8 to 50 cfs) based on the USGS Soquel Creek gauge in Santa Cruz County.
7. San Lorenzo River and adjacent streams north to Waddell Creek in Santa Cruz County (between 40 to 140 cfs).
8. Pescadero Creek (between 8 to 50 cfs ) and San Mateo County coastal streams from Elliot Creek to Milagro Creek.
9. Coyote Creek downstream of its confluence with Upper Penitencia Creek, and Upper Penitencia Creek (20 to 40 cfs).

#### **Section 43—Captive Propagation and Commercialization of Native Reptiles**

Current regulations authorize the Department to issue permits for captive propagation of the following three native snakes for commercial purposes: common king snake (*Lampropeltis getulus*), gopher snake (*Pituophis melanoleucus*), and rosy boa (*Lichanura trivirgata*). No other native reptiles or amphibians are allowed for commercial purposes. Amphibians and reptiles not native to California are allowed for commercialization, unless specifically prohibited in Section 671, Title 14 (Restricted Species).

In previous Commission meetings, the Department recommended that the Commission consider removing amphibians from the title and body of Section 43, Title 14, so that the regulation applies only to reptiles. No amphibians are currently authorized for use under this section. On February 6, 2003, the Commission adopted a policy, drafted by the Department, that provides guidelines for addressing requests to add or remove species from the list of species authorized for capture and propagation for commercial purposes. The Department is proposing a regulation change that supports the Commission's decision to remove amphibians from Section 43 and adds a provision for adding or removing animals from the authorized list for capture and commercial propagation.

Current regulations lack a provision for a proponent to request the addition or removal of a species from the existing list of species (Section 43) allowed for commercial propagation and sale. The Department's proposed amendments to Section 43 charge the proponent that requests modifications of the list of



species that can be commercially bred and sold, with the responsibility to provide certain specific information necessary for the Department, and ultimately the Commission, to evaluate the proposed action. The information to be required of a proponent is necessary under the Certified Regulatory Program for Adoption of Regulations (Section 777.8, Title 14). The Department recommends that a proponent of such a change should be required to provide whatever information is available about the population status of the reptile, captive care guidelines, an evaluation of the pet market for the reptile, an evaluation of the effects to the environment of released or escaped pets, and an evaluation of the effects of broodstock collection methods on wild populations. The Department will forward a recommendation to the Commission based on reviews of the proponent's information by Department staff and by independent professional herpetologists outside of the Department.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Council Chambers, City Hall, 777 Cypress Avenue, Redding, CA, on October 3, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may also be submitted to the Fish and Game Commission office at the address given below.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA, on November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, October 31, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than Friday, November 7, 2003 at the hearing in San Diego. All correspondence, including E-mail, must include the true name and mailing address of the commenter.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Resources Building Auditorium, 1416 Ninth Street, Sacramento, CA, on December 5, 2003, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2004 and 2005 seasons. Additional testimony on the proposed regulations may be received if substantive changes result from the November 7, 2003, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 10, 2003. Oral or written comments relevant to these documents will be

received at the October 3, 2003, meeting in Redding. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., October 27, 2003. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON OCTOBER 27, 2003.** The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon Snellstrom at the preceding phone number. Jim Hopelain, (916) 445-3597, (Inland) Fisheries Program Branch, and Don Schultze (916) 651-7670, (Ocean Fishing) Marine Region have been designated to respond to questions on the substance of the proposed regulations. Copies of the initial statement of reason, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

**Sections 1.17, 1.59, 27.60, and 195, Re: Boat Bag Limits, Commercial Passenger Fishing Vessel Logbooks**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The reason for this is that the action is expected to have a generally positive effect on sport fishing by authorizing anglers aboard vessels the opportunity to take boat limits. Boat limits should assist some anglers in taking home fish from a fishing trip on the ocean.

**Section 2.09 Re: Possession of Illegal Gear; Section 2.10 Re: Fishing Methods Restrictions; Subsection (a)(1) of Section 5.00 Re: Definition of Sacramento-San Joaquin River Delta; Subsection (b) of Section 5.00 Re: Diamond Valley Lake and Perris Lake Black Bass Regulations; Subsections (b)(118)(B), (b)(168.5)(B), (b)(168.5)(C), (b)(186)(B), (b)(187)(C) and (b)(198)(D) of Section 7.50 Re: San Joaquin, Stanislaus, Tuolumne, and Merced Rivers; Subsection (b)(134)(B) of Section 7.50, Re: Upper Owens River Sport Fishing Restrictions; Subsection (b)(180) of Section 7.50 Re: Smith River special angling regulations; Subsections (b)(42.3), (b)(50.8), (b)(135.8), (b)(139.7) and (b)(187.5) to Section 7.50 Re: South Central Sport Fishing District Regulations, adding additional steelhead waters to the Alphabetical List of Waters with Special Fishing Regulations; Subsection (b)(68) of Section 7.50, Re: Feather River Salmon and Steelhead; Subsections (a) and (a)(4) of Section 8.00 Re: North Coast Low Flow Restrictions; and Subsection (c) of Section 8.00, Re: Low-flow Restrictions for South Central Coast Streams**

Proposed actions will not have significant statewide adverse economic impacts directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Subsection (b)(33) of Section 5.00 and Subsection (b)(195.5) of Section 7.50 Re: Trout Lake (Siskiyou County)**

The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The preservation of Canada geese and other waterfowl is not only the primary stated goal of the Shasta Valley Wildlife Area but is beneficial to nature lovers, birdwatchers, waterfowl hunters and local businesses which provide goods and services related to these recreational activities. The proposed changes are necessary for the continued preservation of waterfowl, particularly Canada geese, and other wildlife values and therefore the prevention of adverse economic impacts locally.

**Subsection (b) of Section 5.50 Re: Mountain Whitefish Bag Limit**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The regulations proposed apply to a fish which is found in only three river drainages in the eastern Sierra. Although the reduced bag limits are important to the management of whitefish, relatively few anglers will be affected.

**Subsection (d)(1) of Section 5.75 Re: Striped Bass at Lake Elsinore, Riverside County**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The management of striped bass will not adversely affect any businesses because this is a new stocking effort. If striped bass do become established this will provide a fishing opportunity which currently does not exist.

**Subsections (b)(2) through (b)(9) of Section 7.00, and Subsections (b)(48), (b)(49), (b)(58), (b)(73.5), (b)(82), and (b)(104.3) of Section 7.50, Re: Open Fishing Season in Inyo County**

The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed change is expected to



promote the economies of Mono County; therefore, no adverse economic impact is anticipated as a result of the change.

**Subsection (e)(2) of Section 7.00, and Subsections(b)(8), (b)(12), (b)(23), (b)(29)(B), (b)(37), (b)(40), (b)(45), (b)(99), (b)(104)(A), (b)(128), (b)(135), (b)(136), (b)(137), (b)(158)(A), (b)(168), (b)(169), (b)(170), (b)(171), (b)(173), (b)(183), (b)(201)(B), (b)(203.5) and (b)(206) of Section 7.50 Re: Steelhead Season in the South Central District**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The regulation change proposal delays the season by two weeks, but adds one week at the end of the season when the angling is likely to be better than at the beginning of the season. This is expected to result in roughly as much angling effort as currently occurs, so should not result in a net change in angler related expenditures.

**Subsection (b)(178) of Section 7.50, Re: Silver King Creek**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The regulations proposed affect a short stream reach in a remote wilderness area of northern California.

**Re: Section 43—Captive Propagation and Commercialization of Native Retails**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The changes are primarily for clarification, and they will have no substantial influence on human activities.

**Re: All Proposed Changes.**

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

It has been determined that the adoption of these regulations may affect small business.

**CONSIDERATION OF ALTERNATIVES**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

**TITLE 16. CALIFORNIA ARCHITECTS BOARD**

**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

NOTICE IS HEREBY GIVEN that the California Architects Board (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 400 R Street, Suite 4000, Sacramento, California, **on October 14, 2003 at 10:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **October 14, 2003** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 125.9, 129(e), 148, 5510.15, 5526, and 5560 of the Business and Professions Code and section 6253 of the Government Code, and to implement, interpret or make specific sections 129(e) and 5526 of said Code, the Board is considering changes to Division 2 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, the Board has no specific language relative to complaint disclosure in regulation. This proposal would add to the Board's regulations a section which expresses the overall goal of the Board to permit information access to consumers and members of the public consistent with statutory and constitutional law. This proposal establishes the following: timeframes for incorporating complaint and disciplinary information into the Board's system; a timeframe for responding to requests for information; conditions of disclosure; information to be disclosed regarding complaints and disciplinary actions; and information that shall not be disclosed to the public.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulation sets forth, by regulation, the Board's amended consumer complaint disclosure policy.

## CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has made available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board at 400 R Street, Suite 4000, Sacramento, California 95814, or by telephoning the contact person listed below.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Victoria Wilk  
Address: 400 R Street, Suite 4000  
Sacramento, CA 95814  
Telephone No.: (916) 445-3394  
Fax No.: (916) 445-8524  
E-Mail Address: vicki\_wilk@dca.ca.gov

The backup contact person is:

Name: Hattie Johnson  
 Address: 400 R Street, Suite 4000  
 Sacramento, CA 95814  
 Telephone No.: (916) 445-3394  
 Fax No.: (916) 445-8524  
 E-Mail Address: [hattie\\_johnson@dca.ca.gov](mailto:hattie_johnson@dca.ca.gov)

Website Access: Materials regarding this proposal can be found at [www.cab.ca.gov](http://www.cab.ca.gov).

## TITLE 16. CALIFORNIA ARCHITECTS BOARD

### LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

#### NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 400 R Street, Suite 4000, Sacramento, California 95814, on **October 14, 2003 at 1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **October 14, 2003** or must be received by the Board at the hearing.

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 5630 of the Business and Professions Code, and to implement, interpret or make specific sections 125.9, 129(e), 148, 5620.1, 5660, and 5665–5676 of the Business and Professions Code and section 6253 of the Government Code, the Board is considering changes to Division 26 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Business and Professions Code section 5630 authorizes the Board to adopt, amend, or repeal rules and regulations, in accordance with the provisions of the Administrative Procedure Act, which are necessary to enable the Board to carry out the provisions of law relating to the practice of landscape architecture.

Protection of the health, safety, and welfare of California consumers is the Board's highest priority. To ensure such protection, the Board is mandated to investigate complaints against persons that are licensed by the Board and unlicensed persons that are subject to its jurisdiction.

#### Amend Section 2608—Complaint Information System

The existing regulation, which became effective on August 2, 1980, sets forth the Board's (formerly, the Board of Landscape Architects) complaint disclosure policy for landscape architects. The regulation establishes information to be provided to the public regarding complaints, disciplinary actions, license status, and the quantity of information to be provided per week.

This proposal retains the Board's existing complaint disclosure policy while including language that is consistent with DCA's "Recommended Minimum Standards for Consumer Complaint Disclosure" and the Board's revised consumer complaint disclosure policy and proposed regulation for architects (CCR section 137). More specifically, this proposal establishes the following: timeframes for incorporating complaint and disciplinary information into the Board's system; a timeframe for responding to requests for information; conditions of disclosure; more defined information to be disclosed regarding complaints and disciplinary actions; and information that shall not be disclosed to the public.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses. The proposed regulation sets forth, by regulation, the Board's amended consumer complaint disclosure policy.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has made available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board, Landscape Architects Technical Committee at 400 R Street, Suite 4000, Sacramento, California, 95814, or by telephoning the contact person listed below.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Justin Sotelo  
Address: Landscape Architects Technical  
Committee  
400 R Street, Suite 4000  
Sacramento, CA 95814

Telephone No.: (916) 445-6573

Fax No.: (916) 324-233

E-mail Address: Justin\_Sotelo@dca.ca.gov

The backup contact person is:

Name: Mona Maggio  
Address: Landscape Architects Technical  
Committee  
400 R Street, Suite 4000  
Sacramento, CA 95814

Telephone No.: (916) 445-6573

Fax No.: (916) 324-233

E-mail Address: Mona\_Maggio@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.latc.ca.gov>.

#### TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Courtyard Marriott, 1510 University Avenue Riverside, California, at 9:00, a.m., on October 17, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office not later than 5:00 p.m. on October 16, 2003 or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for



15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 8525 of the Business and Professions Code, and to implement, interpret or make specific Sections 8505.5, 8505.7, 8505.13, 8505.15, 8505.16, 8516, 8642, 8646 and 8652 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend 1970: Standards and Record Requirements.

Registered companies are currently required to maintain a fumigation log for each fumigation job performed. This amendment would require a fumigating contractor to provide to its prime contractor a complete fumigation log within 10 working days after a fumigation is completed, and require the prime contractor to retain the fumigation logs for least ten years.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Structural Pest Control Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Structural Pest Control Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Structural Pest Control Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

Section 1970 will have no effect on small business because fumigating pest control companies already complete a fumigation log. This amendment will require the fumigating subcontractor to provide a copy of the fumigation log to the primary contractor and for the primary contractor to retain the logs for three years.

#### CONSIDERATION OF ALTERNATIVES

The Structural Pest Control Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Structural Pest Control Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 1418 Howe Ave Suite 18, Sacramento, California 95825.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

#### CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Delores Coleman  
Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA. 95825  
Telephone No.: (916) 561-8700  
Fax No.: (916) 263-2469



E-Mail Address: [Delores\\_Coleman@dca.ca.gov](mailto:Delores_Coleman@dca.ca.gov)

The backup contact person is:

Name: Susan Saylor

Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA 95825

Telephone No.: (916) 561-8700

Fax No.: (916) 263-2469

E-Mail Address: [Susan\\_Saylor@dca.ca.gov](mailto:Susan_Saylor@dca.ca.gov)

Website Access [if you have a website]: Materials regarding this proposal can be found at [www.pestboard.ca.gov](http://www.pestboard.ca.gov)

## TITLE 18. STATE BOARD OF EQUALIZATION

### NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1591, Medicines and Medical Devices, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on October 15, 2003. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by October 15, 2003.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 6369, provides an exemption from tax for sales of medicines, as defined, under defined conditions. The statute provides that prosthetic devices qualify as medicines within the meaning of the statute if they are worn on the body of the patient and perform other specified functions.

Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to provide that sales of breast and tissue expanders are exempt from tax under defined conditions.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any cost to local agency or school district that are required to be reimbursed under Part 7 (commenc-

ing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of proposed Regulation 1591 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete in other states.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulation may affect small business.

### COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### SIGNIFICANT EFFECT ON HOUSING COST

No significant effect.

### FEDERAL REGULATIONS

Regulation 1591 and the proposed changes have no comparable Federal regulations.

### AUTHORITY

Section 7051 Revenue and Taxation Code.

### REFERENCE

Section 6369 Revenue and Taxation Code.

### CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail [Mariflor.Jimenez@boe.ca.gov](mailto:Mariflor.Jimenez@boe.ca.gov) or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail [Karen.Anderson@boe.ca.gov](mailto:Karen.Anderson@boe.ca.gov)

or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

#### ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the internet at the Board's website <http://www.boe.ca.gov>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

#### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

## TITLE 20. CALIFORNIA ENERGY COMMISSION

### NOTICE OF PROPOSED ACTION FOR ADOPTION OF REGULATIONS GOVERNING DATA COLLECTION AND EXEMPTIONS FROM COST RECOVERY SURCHARGE

California Energy Commission  
Docket No. 03-CRS-01

#### NOTICE

The California Energy Commission (Commission) proposes to adopt regulations under the authority of Public Resources Code sections 25213 and 25218(e) and Title 20, California Code of Regulations, section 1220 et seq. The regulations would implement Public Resources Code sections 25216, 25216.5, 25301, and 25320, which set forth the Commission's authority to collect data, conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, prices, and encourage cooperation with state agencies sharing energy related responsibilities.

In particular, the proposed regulations would allow the Commission to collect data associated with the deployment of distributed generation (DG). The collected data would assist the Commission in preparing its Integrated Energy Policy Report (IEPR) and assessing the contributions of DG to the overall reliability of California's electrical system. The data would also allow the Commission to assess the potential for departing load, which could affect the Commission's forecasts of electricity demand. Departing load refers to that portion of the utility customer's electric load for which the customer: (1) discontinues or reduces its purchase of bundled or direct access service from the utility; (2) purchases or consumes electricity supplied and delivered by "Customer Generation" to replace the utility or Direct Access purchases; and (3) remains physically located at the same location or elsewhere within the utility's service territory.

Finally, the data collected would be useful to the California Public Utilities Commission (CPUC) to make determinations as to whether departing load customers are eligible for an exemption from the cost responsibility surcharge (CRS), part of the energy cost obligations associated with the California energy crisis of 2000-01, as set forth by the CPUC in Decision 03-04-030. Both the Commission and the CPUC are interested in recovery of energy cost obligations without hindering the effective deployment of DG technologies throughout the State.

The proposed regulations set forth the form, type of information to be submitted, and the process for submitting data to the Commission for tracking new DG facilities and making determinations as to their eligibility for the CRS exemption. The date set for adoption of the proposed regulations is as follows:

Commission Business Meeting  
October 22, 2003  
Beginning at 10 a.m.  
California Energy Commission  
Hearing Room A  
1516 9<sup>th</sup> Street  
Sacramento, CA 95814

#### ORAL AND WRITTEN STATEMENTS

Interested persons may present oral or written statements about the proposed regulations at the hearing mentioned above. In addition, written comments may also be filed with the Commission on or before 5 p.m. October 20, 2003 by submitting them to:

Docket Unit  
California Energy Commission  
Docket No. 03-CRS-01  
1516 9<sup>th</sup> Street, MS-4  
Sacramento, CA 95814

#### INITIAL AND FINAL STATEMENTS OF REASONS AND TEXT OF REGULATIONS

The Commission has prepared a complete text of the proposed regulations and an initial statement of reasons for the proposed regulations. To obtain a copy of the proposed regulations and initial statement of reasons, please contact Linda Merdinger at (916) 654-3951 or by e-mail at [lmderding@energy.state.ca.us](mailto:lmderding@energy.state.ca.us). Additionally, the Commission has available all the information upon which the proposed regulations are based. To obtain copies, please contact the Docket Unit at the above address, or call (916) 654-5076. For information involving the rulemaking process, contact Darcie Houck at (916) 654-3855 or by e-mail at [dhouck@energy.state.ca.us](mailto:dhouck@energy.state.ca.us), or for information about this rulemaking contact Scott Tomashefsky at (916) 654-4896 or by e-mail at [stomashe@energy.state.ca.us](mailto:stomashe@energy.state.ca.us). Information, including the text of the regulations, Notice of Proposed Action, and Initial Statement of Reasons are posted on the Commission website at [www.energy.ca.gov](http://www.energy.ca.gov).

When prepared, the Final Statement of Reasons will be made available by contacting the above persons.

#### PUBLIC ADVISOR

The Commission's Public Advisor is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Advisor, please call Roberta Mendonca at (916) 654-4489 or toll free at (800) 822-6228, or by e-mail at [rmendonc@energy.state.ca.us](mailto:rmendonc@energy.state.ca.us).

#### INFORMATIVE DIGEST

##### Role of Commission

The Commission was created by the Warren-Alquist State Energy Resources Conservation and Development Act (Public Resources Code section 25500 et seq.). The Act vests the Commission with a wide range of duties and responsibilities related to the development and conservation of energy resources in California. As the agency responsible for establishing the state's energy policy, the Commission collects, stores, analyzes, and disseminates a broad range of information. These activities involve conducting a wide range of assessments and forecasts for all aspects of the energy industry: supply, production, transportation, delivery and distribution, demand, and prices.

##### Order Instituting Rulemaking

On May 28, 2003, the Commission adopted an Order Instituting Rulemaking (OIR) to consider the adoption of regulations to collect data related to DG deployment and determination of eligibility for CRS exemptions as set forth in the recent CPUC Decision 03-04-030. The Commission intends to set forth a process to collect data that will provide information as to the timing, type, technology, efficiency, and capacity of customer generation eligible for a CRS exemption. The publication of this Notice of Proposed Action initiates the formal rulemaking process.

The Commission must provide a minimum of 45-days for public comment prior to agency adoption of the regulations. The Commission, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described in this notice or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be made available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit any written or oral testimony to this proposal, or who have requested notification of any changes to the proposal.

##### Existing Laws and Regulations

There are several sections of the Public Resources Code that direct the Commission to conduct assessments and forecasts of all aspects of the energy industry in the state and that authorize the Commission to collect the data needed to carry out its responsibilities. Section 25216 states that the Commission shall "[u]ndertake a continuing assessment of trends in the consumption of electrical energy and other forms of energy and analyze the social, economic, and environmental consequences of these trends." Section 25216.5 designates the Commission as the central



repository within state government for the collection of data on all forms of energy supply and demand, among other matters. Section 25310 directs the Commission to conduct assessments and forecasts of all aspects of energy supply, demand, and prices, among other matters. Section 25320 requires the Commission to adopt an extensive data collection system to obtain the information necessary to perform the duties of the Commission. All these sections give the Commission broad authority to collect information on energy related issues of statewide importance.

Additionally, section 25300 of the Public Resources Code declares that state government requires at all times a complete and thorough understanding of the operation of all aspects of the energy industry, that timely reporting, assessment, forecasting, and data collection activities are essential to serve the needs of the government, and that cooperation among the various state agencies with energy responsibilities shall be encouraged.

As a related matter, the CPUC has recently adopted Decision 03-04-030 in CPUC OIR R.02-01-011 regarding the CRS for departing load customers. This Decision sets forth the criteria for exempting eligible customers from the surcharge. In the Decision, the CPUC notes that the Commission's data collection experience makes the agency the "logical" entity to collect the data based on criteria established in the Decision. As lead energy data collector for the state, the Commission is clearly in the best position to collect the information necessary for determining eligibility for the exemption based on the CPUC's adopted criteria. This role for the Commission clearly falls within the Commission's broad data collection responsibilities, and furthers cooperation among state agencies with energy responsibilities.

#### EFFECT OF THE PROPOSED ACTION

The proposed regulations would set forth a process for the collection of data that the Commission would utilize in making energy assessments and forecasts related to DG, as well as provide to the CPUC in the determination of the CRS exemptions allowed under CPUC Decision 03-04-030. The process would state the type of information needed to assess deployment, determine the eligibility for CRS exemptions based on the CPUC's Decision, set forth timing and queue-related requirements, and establish a dispute-resolution process. The process would also allow for the timely collection of information to be utilized by the Commission in its biennial IEPR process. Through a cooperative effort with the CPUC, the proposed regulations would ultimately be implemented by the state's investor-owned utilities per CPUC directive.

#### COMPARABLE FEDERAL LAW

There is no comparable Federal law. The state has given the Commission broad authority to collect data and make assessments related to energy matters within the state.

#### POLICY STATEMENT OVERVIEW

The Commission has broad statutory authority to collect data for assessing and forecasting the State's energy needs. Distributed generation is an important element in California's energy planning. In order to accurately assess and forecast California's energy needs, as well as, determine the effectiveness of programs and incentives offered by the Commission and the CPUC the Commission will need to collect data associated with specific deployment of DG.

In early April 2003, the CPUC issued Decision 03-04-030, adopting policies and mechanisms related to the collection of a CRS from customers categorized as departing load. The creation of the CRS is consistent with California's intent to recover the costs incurred by the California Department of Water Resources to procure electricity on behalf of the state's investor-owned utilities: Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric. The CRS and exemptions from CRS allowed under Decision 03-04-030 may impact deployment of new DG, and future energy planning for the state.

The CPUC requested that the Commission determine eligibility for a CRS Exemption, consistent with the policies outlined in CPUC Decision 03-04-030, given the Commission is the lead energy policy agency with expertise in data collection of this nature. The Commission believes the data to be important information that should be included in the IEPR issued by the Commission. Additionally, the service the Commission provides in collecting this data and determining eligibility for CRS exemptions demonstrates cooperation among state agencies with energy responsibilities.

#### LOCAL MANDATE DETERMINATION

The proposed changes, if adopted, would not impose a mandate on local agencies or school districts.

#### COST/SAVINGS ESTIMATE

The Commission has determined that the proposed changes, if adopted, would not result in any costs or savings to other state agencies, nor costs to any local agencies or school districts, including such costs as are required to be reimbursed under Government Code section 17500 et seq. The Commission has also determined that the proposed regulations, if adopted, would not result in any other nondiscretionary cost or savings imposed on local agencies. There would be no costs or savings in federal funding to the state. The Commission is in the process of developing a staff



position that would coordinate all DG related work within the Commission. Any responsibilities that would occur as a result of this rulemaking would be incorporated into that staff person's duties. Additionally, minor IT in maintaining the data in a computerized format, including adding and updating information on the Commission website may be incurred. A completed Fiscal Impact Statement form, prepared in accordance with instructions adopted by the Department of Finance, is available by contacting Linda Merdinger at (916) 654-3951 or by e-mail at [lmerding@energy.state.ca.us](mailto:lmerding@energy.state.ca.us).

#### INITIAL DETERMINATION OF NO STATEWIDE ADVERSE IMPACT

The Commission has made an initial determination that the action, if adopted, would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This determination is based on the nature of the proposed regulations. If adopted, they would not impose substantive requirements on businesses. Instead, they would establish procedures for the Commission to collect data on DG, and based on the data and the CPUC's adopted criteria, allow the CPUC to determine eligibility for a CRS exemption. By establishing a procedure for data collection from DG for CRS exemptions, the Commission expects anyone in the DG industry who qualifies for an exemption to benefit from cost savings by not having to pay energy costs that otherwise rest on generators and consumers from the energy crisis of 2000-01. The direct benefits from the existence of a CRS exemption stem from the CPUC's decision, not the action of the Commission in implementing this rulemaking. The Commission is requesting that the information needed to determine whether a customer is qualified for an exemption be provided to the Commission for placement in the Queue, assessment of impacts on statewide energy planning, and assessment of the pros and cons of a CRS exemption for departing loads.

#### COST IMPACT ON PRIVATE PERSONS OR DIRECTLY AFFECTED BUSINESSES

The Commission is not aware of any specific impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulation will not affect small businesses, as the regulation requires utilities to forward data that customers intending to depart from the electricity grid would need to submit to the electric utility where the customer is located, and the CPUC in order to receive a CRS exemption. The reporting requirements are not mandated for all businesses. Customers wishing to receive CRS exemp-

tions must provide information to the utilities as required by the CPUC. The Commission is requiring the utilities and customers wishing to receive CRS exemptions to provide information that will allow the Commission to track the CRS exemptions and assess whether customers are eligible for such exemptions.

The tracking of CRS exemptions and maintaining a Queue will ensure that customers pay their fair share of any cost incurred by the state during the energy crisis, as well as, provide information for critical energy resource planning by the Commission. The state does not want to limit or restrict deployment of DG that has proven to have benefits on the environment, reliability of the electric grid, and economic development in the state. The state also does not want to leave bundled customers in a position of paying for costs that were not incurred on their behalf during the energy crisis.

For these reasons, the Commission finds that it is necessary for the health, safety, or welfare of the people of the state, that this regulation requiring a report, apply to business.

#### ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION

The proposed regulations would have no foreseeable effect on the creation or elimination of jobs, the creation or elimination of businesses within the state, or the expansion of businesses currently doing business within the state. Neither the existing regulations nor the proposed amendments impose substantive requirements; they merely establish procedures for the Commission to collect data from customer generators concerning aspects of their generating units. The proposed regulations will provide a process for the collection of data that will assist the state in making accurate assessments of the DG aspects of the energy industry and allow for timely qualification and tracking of CRS exemptions for eligible facilities.

#### HOUSING EFFECTS STATEMENT

Pursuant to Government Code section 11346.5(a)(12), the Commission has determined, based on the nature of the proposed changes, that they will not have a significant effect on housing costs.

#### CONSIDERATION OF ALTERNATIVE PROPOSALS

The Commission must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AGENCY CONTACT

Inquiries concerning the proposed amendment should be directed to Darcie Houck, by calling (916) 654-3855, by e-mail at [dhouck@energy.state.ca.us](mailto:dhouck@energy.state.ca.us), or Scott Tomashefsky by calling (916) 654-4896, by e-mail at [stomashe@energy.state.ca.us](mailto:stomashe@energy.state.ca.us).

#### STATUTORY AUTHORITY AND REFERENCE

Authority: Public Resources Code sections 25213 and 25218(e)

Reference: Public Resources Code sections 25216, 25216.5, 25301, and 25320

### **TITLE. 22. DEPARTMENT OF SOCIAL SERVICES**

#### **NOTICE OF PROPOSED CHANGES IN REGULATIONS ORD #0902-23**

##### **ITEM #1 CCL—Criminal Record Exemption Regulations**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held October 15, 2003, as follows:

October 15, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on October 15, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all

persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
44 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Sections 80001 (Definitions), 80019 (Criminal Record Clearance), 80019.1 (Criminal Record Exemption), 80019.2 (Child Abuse Central Index), 80054 (Penalties), 80061 (Reporting Requirements), 80065 (Personnel Requirements), and 80066 (Personnel Records); Chapter 8 (Residential Care Facilities for the Elderly), Sections 87101 (Definitions), 87219 (Criminal Record Clearance), 87219.1 (Criminal Record Exemption), 87454 (Penalties), 87565 (Personnel Requirements—General), and 87566 (Personnel Records); and Chapter 8.5 (Residential Care Facilities for the Chronically Ill), Sections 87801 (Definitions), 87819 (Criminal Record Clearance), 87819.1 (Criminal Record Exemption), 87854 (Penalties), 87861 (Reporting Requirements), 87865 (Personnel Requirements), and 87866 (Personnel Records); and Title 22, Division 12, Chapter 1 (Child Care Center General Licensing Requirements), Sections 101152 (Definitions), 101170 (Criminal Record Clearance), 101170.1 (Criminal Record Exemption), 101170.2 (Child Abuse Central Index), 101195 (Penalties), 101212 (Reporting Requirements), 101216 (Personnel Requirements), and 101217 (Personnel

Records); and Chapter 3 (Family Child Care Homes), Sections 102352 (Definitions), 102370 (Criminal Record Clearance), 102370.1 (Criminal Record Exemptions), 102370.2 (Child Abuse Central Index), 102395 (Penalties), 102416 (Personnel Requirements), 102416.1 (Personnel Records), 102417 (Operation of a Family Child Care Home), and 102419 (Admission Procedures and Parental and Authorized Representatives Rights).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, the Community Care Licensing Division (CCL) of the California Department of Social Services (CDSS) has regulations in place that apply to all community care facilities (Division 6) and to all child care centers (Division 12). The proposed regulations amend the current CCL regulations by amending the applicable existing Definition; Criminal Record Clearance; Criminal Record Exemption; and Personnel Record Sections throughout Division 6, Chapters 1, 8, and 8.5 and Division 12, Chapters 1 and 3. The amendments are consistent with Health and Safety Code Sections 1522, 1522.1, 1568.09, 1569.17, 1596.871, and 1596.877, which were amended by Senate Bill (SB) 1984, Chapter 1267, Statutes of 1994. SB 1984 requires that the Department place into regulations existing policies and criteria, that have been used and refined for approximately 25 years, to evaluate criminal record exemption requests. Where necessary, regulations throughout all affected sections have been reworded and/or restructured for clarity and consistency.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: These regulations will result in workload increases that are expected to be offset by workload decreases resulting from the new requirements for clearance prior to work.
2. Costs to Local Agencies or School Districts: These regulations will result in workload increases that are expected to be offset by workload decreases resulting from the new requirements for clearance prior to work.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded state agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not on school districts. The mandate is not required to be reimbursed pursuant to Section

17500, et seq. of the Government Code because implementation of the regulations will, if anything, result in negligible costs.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in 1522, 1530, 1530.5, 1568.072, 1569.30, 1596.81, and 1596.871. Subject regulations implement and make specific 1522, 1525.1, 1530, 1531, 1568, 1568.072, 1568.082, 1568.09, 1568.092, 1569.17, 1596.81, 1596.855, 1596.871, 1596.877, 1596.8897, 13143, and 14564, Health and Safety Code; and Section 15376, Government Code.



CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: John Flores  
(916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

**TITLE 22. DEPARTMENT OF  
SOCIAL SERVICES**

NOTICE OF PROPOSED CHANGES  
IN REGULATIONS  
ORD #0403-09

ITEM #3 Interim Closure or Removal Pending Arrest  
Investigation

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held October 15, 2003, as follows:

October 15, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on October 15, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written

comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

California Code of Regulations, Title 22, Division 12, Chapter 1 (Child Care Center), Section 101170 (Criminal Record Clearance); and Chapter 3 (Family Child Care Homes), Section 102370 (Criminal Record Clearance).

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

These proposed emergency regulations amend specific provisions and adopt new language in Title 22, Division 12, Chapter 1 (Child Care Center (CCC), Section 101170, Criminal Record Clearance) and Chapter 3 (Family Child Care Homes (FCCH), Section 102370, Criminal Record Clearance). These amendments are necessary to implement the Department of Social Services' policy that an individual arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, constitutes a possible risk to the children in licensed child care facilities.

These emergency regulations specify the Department's procedures for requiring a licensee to cease operation or remove an individual from the facility for up to 30 days. During the 30-day period, the Department will conduct an investigation and make a final determination regarding whether or not administrative action will be taken against the licensee or individual.



Amending the aforementioned sections increases the Department's ability to protect children in licensed child care facilities.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The estimated ongoing cost will be \$306,000 to perform all of the necessary activities in a time sensitive manner.
2. Costs to Local Agencies or School Districts: There would be a negligible fiscal impact on local agencies and no fiscal impact on school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded state agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

These emergency regulations will grant the Department of Social Services authority to require a licensee to cease operation or remove an individual from the facility for up to 30 days. This will occur when the Department receives information that a licensee or individual associated with a licensed child care facility has been arrested for a crime for which, if convicted, the individual would not be eligible, by law, to receive an exemption.

Temporary facility closures and/or not allowing an individual to work will result in lost wages for the individuals associated with the facility. However, temporary closure of a child care center, which has several employees, will be rare. Temporary closure of a family child care home is more likely because the licensee is the primary caregiver and typically only one additional person is employed.

There are approximately 419,305 individuals that have received a caregiver background check and are associated with licensed child care facilities. The Department receives subsequent arrest information indicating a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, for approximately 20 individuals per month. Given there are 60,773 licensed child care facilities serving 1,147,793 children, the impact of these regulations is minimal.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private person than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 1596.81 of the Health and Safety Code. Subject regulations implement and make specific Sections 1596.871, 1597.59 of the Health and Safety Code.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Everardo Vaca  
(916) 657-2586

#### EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

## TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Adoption of Sections 2706-2, 2708(b)-1, and 2708(c)-1 and Adoption of Chapter 7. Family Temporary Disability Insurance, Sections 3301(d)-1, 3302-1, 3302-2, 3303(a)-1, 3303(a)-2, 3303(e)-1, and 3303(g)-1, of Division 1. Unemployment and Disability Compensation, of Part 2. Disability Compensation, of Title 22, California Code of Regulations

### FAMILY TEMPORARY DISABILITY INSURANCE

#### NOTICE OF PROPOSED RULEMAKING

The Employment Development Department (Department) is proposing to adopt regulations pertaining to the paid family care leave program, otherwise known as the Family Temporary Disability Insurance (FTDI) program. The proposed regulations will be added as California Code of Regulations (CCR), title 22, sections 2706-2, 2708(b)-1, and 2708(c)-1, and Chapter 7 (sections 3301(d)-1, 3302-1, 3302-2, 3303(a)-1, 3303(a)-2, 3303(e)-1, and 3303(g)-1) of Division 1, Part 2.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

#### PUBLIC HEARINGS

##### HEARING DATES AND LOCATIONS

Public hearings will be held on the proposed regulations as follows:

**Date and Time:** Monday, September 15, 2003  
10:00 a.m.

Location: Employment Development  
Department  
1<sup>st</sup> Floor Auditorium  
722 Capitol Mall  
Sacramento, CA 95814

**Date and Time:** Tuesday, September 23, 2003  
10:00 a.m.

Location: Elihu Harris Building  
Room 7, 2<sup>nd</sup> Floor  
1515 Clay Street  
Oakland, CA 94612

**Date and Time:** Wednesday, October 15, 2003  
10:00 a.m.

Location: Van Nuys State Building  
1<sup>st</sup> Floor Auditorium  
6150 Van Nuys Boulevard  
Van Nuys, CA 91401

Representatives of the Department will preside at the hearings. The public hearings will convene at 10 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. Persons who wish to speak are requested to register before the hearings. Pre-hearing registration will be conducted at the hearing locations from 9:15 a.m. to 9:45 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

At the hearings, any person may present statements, arguments or contentions, orally or in writing, relevant to the proposed regulatory action described in the Informative Digest/Policy Statement Overview. The Department requests, but does not require, persons who make oral comments also to submit a written copy of their testimony.

Due to enhanced security precautions at state buildings, it may be required that visitors sign in prior to attending any meetings or hearings. Depending on their destination and the building security level, visitors may be asked to show valid identification. Valid identification can take the form of a current driver's license, military identification card, or state or federal identification card, or other form of identification. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to the hearing.

##### ACCESS TO HEARING ROOM

The facilities to be used for the public hearings are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

##### WRITTEN COMMENT PERIOD

Statements, arguments or contentions regarding the proposed regulatory action must be submitted in writing, or may be presented orally or in writing at the public hearing, in order for them to be considered by the Department before it adopts the proposed regulations.

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). E-mail comments must include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than October 15, 2003, at 5 p.m.

Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

#### CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi  
Employment Development  
Department  
P. O. Box 826880  
Legal Office, MIC 53  
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi  
Employment Development  
Department  
800 Capitol Mall  
Legal Office, Room 5020  
Sacramento, CA 95814

Telephone No.: (916) 654-7712

Fax No.: (916) 654-9069

E-Mail Address: [eddlegal@edd.ca.gov](mailto:eddlegal@edd.ca.gov)

**Note:** In the event Laura Colozzi is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers

Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Terence R. Savage

Telephone No.: (916) 654-8410

#### INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

#### AUTHORITY AND REFERENCE

Authority: Sections 305 and 306, Unemployment Insurance Code. Reference: Sections 2656, 2701.5, 2706, 2708, 3300, 3301, 3302, 3303, Unemployment Insurance Code, and 29 United States Code section 2611(12).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Part 2. Disability Compensation (commencing with section 2601) of the Unemployment Insurance Code (hereinafter, code) sets forth the provisions with respect to state unemployment compensation disability benefits otherwise known as state disability insurance (SDI). The express purpose of Part 2 of the code is to compensate in part for the wage loss sustained by individuals unemployed because of sickness or injury. Provisions and definitions of Part 1 (commencing with

section 100) of the code are applicable to unemployment compensation benefits (UI) and only to SDI when there are no prevailing provisions in Part 2.

Senate Bill 1661 (SB 1661) signed by Governor Davis on September 23, 2002, and effective January 1, 2003, amends sections 984, 2116, 2601, 2613, 2708, and 3254 of and adds Chapter 7, commencing with section 3300, to the code to provide for a paid family care leave program. This leave program, otherwise known as the FTDI program, is a component of the SDI program and per statute shall be administered in accordance with the policies of the SDI program pursuant to Part 2 of the code. The Legislature has declared that there is a need for partial wage replacement for workers taking leave to care for a sick or injured child, spouse, parent, registered domestic partner, or to bond with a new child. SB 1661 becomes operative January 1, 2004. Employee tax withholdings (worker contributions) to cover the initial cost of FTDI benefits begin January 1, 2004. At present, tax withholdings to cover FTDI continue only through calendar year 2005. An employee may be eligible for FTDI benefits for claims commencing on and after July 1, 2004. Initial and ongoing administrative costs associated with the FTDI program are payable from the Disability Fund.

At the federal level, Congress passed the Family and Medical Leave Act (FMLA) in 1993, which allows employees of a covered employer to take job-protected, unpaid leave for up to twelve weeks in any twelve-month period. Leave can be taken for the birth of a child; care for the newborn, adopted, or foster child; care for a seriously ill family member (child, parent or spouse); or the employee's own serious health condition. The U. S. Department of Labor enforces the FMLA. California passed similar legislation in 1993 known as the California Family Rights Act (CFRA). The California Department of Fair Employment and Housing enforces the CFRA. As with FMLA, leave taken under CFRA is unpaid.

Under code sections 305 and 306, the Department is authorized to adopt, amend, or repeal regulations for the administration of the functions of the Department. Under code sections 2625, 2706, and 2708, SDI benefits are payable from the Disability Fund to individuals who file claims for benefits in accordance with authorized regulations and are eligible to receive such benefit payments.

SB 1661 provides the framework of the FTDI program, however, current regulations do not exist for the administration of the FTDI program. The proposed regulations are needed to ensure compliance with relevant statutes and to ensure benefit payments are made only to eligible individuals as required by

statutory authority. Specifically, the proposed regulations interpret and apply provisions in code sections 2706, 2708, 3301, 3302, and 3303.

By promulgating the necessary regulations, the public will be notified as to how the Department will implement and apply the SB 1661 provisions within the SDI program.

#### FISCAL IMPACT

**Anticipated costs or savings in federal funding to the State:** None

**Anticipated costs or savings to any State Agency:** None

**Anticipated costs or savings to any local agency or school district:** None

**Significant statewide adverse economic impact:** The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed regulations will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

**The cost impact on representative persons or businesses:** The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Anticipated impact on housing costs:** The proposed regulations will have no effect on housing costs.

**Anticipated nondiscretionary costs or savings imposed upon local agencies:** None

#### SMALL BUSINESS IMPACT

These proposed regulations in and of themselves will have no affect on small businesses because they do not impose any new mandates on small businesses. They do not require that small businesses take any action or refrain from taking any action in regards to conducting business.

#### LOCAL MANDATE DETERMINATION

The Department has determined that these proposed regulations will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

#### CONSIDERATION OF ALTERNATIVES

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

#### MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing; whose comments were received by the Department during the public comment period; and who requested notification from the Department of the availability of such changes.

#### FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

#### FURTHER INFORMATION

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.



All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

## **TITLE 23. STATE WATER RESOURCES CONTROL BOARD**

### **NOTICE OF PROPOSED RULEMAKING**

The State Water Resources Control Board (SWRCB) proposes to adopt the amended regulations described below after considering all comments, objections and recommendations regarding the proposed action.

### **PROPOSED REGULATORY ACTION**

The SWRCB proposes to amend Article 8, Title 23, of the California Code of Regulations (CCR) relating to fees charged to wastewater treatment plant operators and supervisors. This proposed regulatory action would revise the fee schedule for examinations, certification and certification renewal for wastewater treatment plant operators and operators-in-training.

### **PUBLIC HEARING**

The SWRCB will hold a public hearing on the proposed action starting at 10:00 a.m. on October 20, 2003 in the Sierra Hearing Room located in the Joe Serna Jr./Cal/EPA Building, 1001 I Street, Sacramento, CA 95814. This facility is accessible to persons with disabilities. Individuals who require special accommodations are requested to contact Adrian Perez at (916) 341-5880 at least 5 working days prior to the meeting date. TTY users may contact the California Relay service at 1-800-735-2929 or voice line at 1-800-735-2922. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SWRCB requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

### **WRITTEN COMMENT PERIOD**

Any person may submit written comments on these proposed regulations. The written comment period closes at 5:00 p.m. on October 13, 2003. Comments must be received by that time at the SWRCB, Division of Financial Assistance, Office of Operator Certification, 1001 I Street, Sacramento, CA 95814, Attention: Sandy Malos. Written comments may be faxed to Ms. Malos at (916) 341-5707 or e-mailed to maloss@swrcb.ca.gov.

All comments received during the 45-day comment period will be given consideration. Responses will be

made by modifying the proposed regulations or explaining in the Final Statement of Reasons why the changes were not made.

### **AUTHORITY AND REFERENCE**

Water Code section 1058 authorizes the SWRCB to adopt the proposed regulatory action. In addition, this regulatory action implements, interprets and makes specific the provisions of Water Code section 13628 relating to fees charged for wastewater treatment plant operator certification.

### **INFORMATIVE DIGEST**

To ensure that wastewater treatment plants are properly operated and maintained, the Legislature established the Wastewater Treatment Plant Classification and Operator Certification Program. Under Chapter 9 of Division 7 of the Water Code, the SWRCB is assigned responsibility to administer the program. Operators of public and private wastewater facilities must demonstrate competence through education, experience and testing. Persons found to be in violation of Chapter 9 of the Water Code and Chapter 26, Title 23 of the CCR are subject to licensure sanctions and fines. There are no federal statutes or regulations governing certification of wastewater treatment plant operators. This action would make permanent the fee schedule that was adopted on an emergency basis on March 11, 2003.

### **POLICY STATEMENT OVERVIEW**

The primary purpose of the program is to protect public health and the environment by providing for the effective operation of wastewater treatment plants through the certification of wastewater treatment operators. Fees charged to applicants for examinations and certifications are deposited in the General Fund and disbursed back to the Program as needed. In Fiscal Year 2001-02, \$340,022 was collected in fees. Annual program costs over the last four years, including enforcement, averaged approximately \$615,000. The additional costs have been covered by the General Fund. Due to the General Fund reductions taken in the last few years, an increase in the fees is necessary to allow the Program to meet its responsibilities.

The Initial Statement of Reasons (ISOR) provides detailed program revenue and expense information. Attachment 1 to the ISOR, "Cost of the Office of Operator Certification," documents the staff costs for Fiscal Year 2002-03. The cost of existing staff, at current workload levels, is \$616,556 per year. Attachment 2 to the ISOR, "Operator Fees, 1992-2002," lists funds generated by fees over the last ten years. Attachment 3 to the ISOR, "Anticipated Revenue Generated by Proposed Fee Increase" shows the projection of additional revenues from the proposal.

The prior and proposed fees are as follows with the proposed fees shown in **bold type**.

Grade	Certification *		Exam Application		Exam Fee **		Renewal	
	Prior	Proposed	Prior	Proposed	Prior	Proposed	Prior	Proposed
I	\$ 50	<b>\$ 95</b>	\$25	<b>\$40</b>	\$ 25	<b>\$ 40</b>	\$ 50	<b>\$ 95</b>
II	\$ 70	<b>\$130</b>	\$30	<b>\$50</b>	\$ 30	<b>\$ 50</b>	\$ 70	<b>\$130</b>
III	\$ 90	<b>\$170</b>	\$40	<b>\$70</b>	\$ 75	<b>\$125</b>	\$ 90	<b>\$170</b>
IV	\$100	<b>\$190</b>	\$45	<b>\$80</b>	\$100	<b>\$170</b>	\$100	<b>\$190</b>
V	\$100	<b>\$190</b>	\$45	<b>\$80</b>	\$100	<b>\$170</b>	\$100	<b>\$190</b>

\* OIT certificate fee based on grade level requested.

\*\* Cost to administer and grade the exam.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SWRCB has made the following determinations:

- Mandate on local agencies and school districts: None. Although the proposed regulatory action increases fees, the charges are assessed to individuals seeking certification. Some agencies have voluntarily established policies whereby they pay or reimburse employment-related costs.
- Cost or savings to any state agency: None. See the comment under Mandate on local agencies and school districts.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None.
- Other nondiscretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states: None.
- Cost impact on a representative private person or businesses: The proposed regulatory action will increase costs to private persons (wastewater treatment plant operators) who will pay higher fees for certification and renewal. The fee increases are consistent with Water Code Section 13628, which requires the program to be self-supporting. Fees charged for examination, certification and certification renewal for operators and operators-in-training are proposed to be increased by approximately 90 percent.
- Adoption of these regulations will not:
  - (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses within California; or

(3) affect the expansion of businesses currently doing business within California.

- Significant effect on housing costs: None.
- Effect on small business: The SWRCB has determined that the proposed regulatory action does not affect small businesses because it affects only individuals. The fees established by this action are charged solely to individuals who are applying for examinations and/or certifications as wastewater treatment plant operators.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the SWRCB must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The SWRCB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries on the substance of the text should be addressed to:

Sandy Malos  
Office of Operator Certification  
Division of Financial Assistance  
Post Office Box 944212  
Sacramento, CA 94244-2120  
Telephone: (916) 341-5731  
E-Mail: maloss@swrcb.ca.gov

You may also direct requests for copies of the proposed text of the amended regulations, the initial statement of reasons, the modified text of the amended regulations, if any, or other information upon which the rulemaking is based to Ms. Malos at the above address. In the event that Ms. Malos is unavailable to respond to inquiries, please contact:

Jennifer Nitta  
Office of Operator Certification  
Division of Financial Assistance  
Post Office Box 944212

Sacramento, CA 94244-2120  
Telephone: (916) 341-5639  
E-Mail: nittaj@swrcb.ca.gov

**AVAILABILITY OF INITIAL STATEMENT  
OF REASONS AND TEXT OF  
PROPOSED REGULATIONS**

The SWRCB will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the text of the existing and proposed regulations, and the initial statement of reasons. Copies may be obtained by contacting Ms. Malos at the address or telephone number above. Copies may also be obtained on the SWRCB website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

Following receipt of comments, the SWRCB may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly indicated—shall be made available to the public for at least 15 days prior to the date on which the SWRCB adopts the regulations. Contact Ms. Malos at the address or telephone number above to make requests for copies of any modified regulations. Any modified regulations will also be posted on the SWRCB website at the above address. The SWRCB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact persons named in this notice or may be accessed on the website listed above.

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

**NOTICE OF PROPOSED CHANGES  
IN REGULATIONS  
ORD #1202-27**

Item #2 Budgeting of the Food Stamp Program  
Standard Utility Allowance

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally

or in writing relevant to the proposed regulations at a public hearing to be held October 15, 2003, as follows:

October 15, 2003  
State Office Building #9  
744 P Street, Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The CDSS will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on October 15, 2003.

The CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are also available online at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

**CONTACT**

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
TELEFAX: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

## CHAPTERS

Manual of Policies and Procedures (MPP) Division 63 (Food Stamp Program), Chapter 63-500 (Eligibility Determinations), Section 63-502 (Income, Exclusions and Deductions).

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The United States Department of Agriculture, Food and Nutrition Service (FNS) released Administrative Notice (AN) 02-23 dated February 2, 2002, clarifying existing federal regulations at 7 Code of Federal Regulations (CFR) Section 273.9(d)(6)(iii)(F) that provide that states do not have the option to prorate the Standard Utility Allowance (SUA) when household members share utility expenses (heating or cooling) with excluded individuals (e.g. ineligible noncitizens).

As a result of the clarification provided by FNS, the CDSS issued All County Letter (ACL) 02-55, dated July 22, 2002, stating that effective October 1, 2002, the procedures for budgeting of the SUA would be updated to allow a household with an excluded member to claim the full SUA.

These proposed regulations align the state regulations with the federal regulations for budgeting of the SUA.

Also, throughout these proposed regulations, the term "alien" is being changed to the more appropriate term "noncitizen." This editorial correction is necessary for clarity and consistency with terminology now used in the federal regulations.

### COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies, county welfare departments, or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because these regulations implement the Federal mandate contained in 7 Code of Federal Regulations (CFR) Section 273.9(d)(6)(iii)(F).

### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

### STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, 10604 and 11369. Subject regulations implement and make specific 7 CFR 273.9(d)(6)(iii)(F).

### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Steve Smalley  
(916) 657-2586

### CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Tiffany Jones  
(916) 654-1905

Backup: J. Patrick Sutherland  
(916) 654-1896



## TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

### NOTICE OF PROPOSED CHANGES IN REGULATIONS ORD #0703-17

#### ITEM # 4 CalWORKs 180-Day Family Reunification Extension

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at public hearings to be held October 15, 2003, as follows:

October 15, 2003  
State Office Building #9  
744 P Street, Auditorium  
Sacramento, California

The public hearings will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facilities are accessible to persons with disabilities. If you are in need of a language interpreter at any hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on October 15, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below or on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearings, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
TELEFAX: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Chapter 40-100 (General), Section 40-181 (Continuing Activities and Determination of Eligibility); Chapter 42-700 (Welfare-to-Work), Sections 42-710 (18- and 24-Month Time Limit), 42-711 (Welfare-to-Work Participation Requirements), and 42-721 (Noncompliance With Program Requirements); Chapter 44-300 (Aid Payments), Section 44-314 (Maximum Family Grant [MFG]); Chapter 80-300 (Definitions and Forms), Section 80-301 (Definitions); and Chapter 82-800 (Assistance Unit), Section 82-812 (Temporary Absence).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The passage of Assembly Bill (AB) 429, Chapter 111, Statutes of 2001, makes changes to Welfare and Institutions Code Section 11203 as it pertains to the temporary absence of CalWORKs Assistance Unit (AU) members. The revision permits the parents of children who have been removed from the home and receiving out-of-home care, to continue to receive CalWORKs funded services, such as substance abuse and mental health services, if the county determines such services are necessary for family reunification. These regulations insure services, necessary for family reunification, will be available to eligible parents.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: Savings of approximately \$404,000 annually, already budgeted in the FY 2003–2004. These savings have already been included in the May Revise 2003 budget due to anticipated reduction in Foster Care assistance costs. There will be no service costs because services are to be funded with the existing single allocation.
2. Costs to Local Agencies or School Districts: Savings of approximately \$1,616,000 annually, already budgeted in FY 2003–2004, due to anticipated reduction in Foster Care assistance

costs. There will be no service costs because services are to be funded with the existing single allocation.

3. Nondiscretionary Costs or Savings to Local Agencies:None.
4. Federal Funding to State Agencies: Savings of approximately \$961,000 annually, already budgeted in FY 2003–04, due to anticipated reduction in Foster Care assistance payments. There will be no service costs because services are to be funded with the existing single allocation.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate does not require reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the California Constitution because implementation of the regulations will result in no costs and may result in savings.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, 10604, and 11203. Subject regulations implement and make specific Welfare and Institutions Code Sections 10553, 10554, 11203, 11323, 11325.21, 11325.4, 11327.5, 11454, 15204.2, 15204.8, 16501, 16501.1(d), (e), (f), and (g), and 16507; 42 USC 408(a)(10); 42 USC Section 608; 45 CFR 233.20; and *Nickols v. Saenz*, San Francisco Superior Court Case Number 310867, August 25, 2000.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Richard P. Torres  
(916) 657-2586

#### CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Ruth Van Den Berg  
(916) 654-1786

Backup: Maria Hernandez  
(916) 654-1450

#### EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

### GENERAL PUBLIC INTEREST

#### DEPARTMENT OF FISH AND GAME

#### CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 CESA No. 2080-2003-015-02

PROJECT: Bryte Bend Water Treatment Plant  
Expansion and Pipeline Extension  
Project

LOCATION: Yolo County, City of West Sacramento

NOTIFIER: City of West Sacramento

### BACKGROUND

On February 28, 2003, the U.S. Fish and Wildlife Service (Service) issued to the U.S. Army Corps of Engineers (Corps), Biological Opinion No. 1-1-02-F-0036 for the Bryte Bend Water Treatment Plant Expansion and Pipeline Extension Project. Additionally, NOAA Fisheries issued Biological Opinion SWR-01-SA-5771:JCB to the Corps on June 6, 2003. The two biological opinions describe the project actions and set forth measures to mitigate impacts to Delta smelt (*Hypomesus transpacificus*), listed as "threatened" under both the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA), Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*), listed as "endangered" under the ESA and CESA, and Central Valley spring-run chinook salmon (*O. tshawytscha*), listed as "threatened" under the ESA and CESA. On July 15, 2003, the Director of the Department of Fish and Game (Department) received a notice from the City of West Sacramento, pursuant to section 2080.1 of the Fish and Game Code, requesting a determination that the federal biological opinions are consistent with CESA.

The City of West Sacramento's Bryte Bend Water Treatment Plant Expansion and Pipeline Extension Project is located Yolo County, in the City of West Sacramento. The City proposes to expand the existing Bryte Bend Water Treatment Plant (BBWTP) from 24 million gallons per day [mgd] (37 cubic feet per second [cfs]) to an ultimate capacity of 60 mgd (90 cfs). The plant is located on the west side of the Sacramento River and northwest of Interstate 80 in the northeastern portion of Yolo County. The following features are proposed to improve current plant operations, allow for an increase of the plant's current capacity and meet the project objectives: 1) improvements to the existing intake pump facility; 2) modifications to the raw water piping and valve vault; 3) addition of new flow metering /flash mix facilities; 4) installation of new high rate clarification systems; and 5) construction of an approximately 2.3 mile long pipeline for expanded flow capacity. A 54-inch water distribution main currently exists from the plant to the intersection of Reed Avenue and Harbor Boulevard. An existing 36-inch pipeline connects with the 54-inch water main at that intersection and extends south along Harbor Boulevard to West Capitol Avenue. A new pipeline would extend from the intersection of West Capitol Avenue and Harbor Boulevard to Jefferson Boulevard in the Southport area. The length

of this proposed 36-inch water transmission main is approximately 2.3 miles (12,000 linear feet). Most of the proposed new facilities and pipeline (except from the Sacramento River levee to the plant) will be constructed on developed (i.e. concrete/asphalt) areas. Pipeline alignment will be placed underneath existing roads. The Department has also reviewed further information on the improvements to the plant and pipeline, which are detailed in the project's November 1, 2001 Initial Study/Mitigated Negative Declaration, and the December 12, 2001 Final Mitigation Monitoring and Reporting Program.

Three existing fish screens would be replaced with three new screens to meet Delta smelt and steelhead fry screening requirements of 0.2 feet per second (fps) approach velocity and 1.75 mm slot size, respectively. In addition, two new 0.2 fps/1.75 mm fish screens would be added to intakes 1 and 3. Additional air piping would be provided for air burst/backwash cleaning of new fish screens. Pumping capacity would be increased to include the existing 10 mgd pump and five new 12 mgd pumps for a total pumping capacity of approximately 60 mgd with one pump on standby to provide backup service. The five new higher capacity, larger diameter screens would be arranged end-to-end with the screen face oriented parallel to the river flow. The screen area would be increased from the existing 70 square feet per screen to 100 square feet per screen. The new screen design would be fabricated using No. 63 wedge wire size.

The proposed increase in BBWTP capacity would require the instillation of approximately 350 feet of new 42-inch pipeline through the western levee of the Sacramento River from the raw water valve vault to the treatment plant. This pipeline would tie into the existing manifolds, one in the valve vault and the other at the head of the plant.

Expansion of the plant to 60 mgd may be completed in two phases:

- Phase I would be completed by 2004 and would be an increase up to 41 mgd.
- Phase II would be completed by 2010 and would be an increase up to 60 mgd.

The schedule for phasing of the raw water intake pump station would be independent of the timing of the increases in service area demands. Four new 12 mgd pumps would be added to intakes 1 and 2 during Phase I to increase plant capacity to 41 mgd. All fish screen work would be completed in Phase 1. The water transmission pipeline would not be phased. The construction of the 12,000 linear feet of pipeline to the Southport area would occur in the first phase of installation. The Service area of the proposed project is the City limits of West Sacramento.



Potential effects of the project include short-term entrainment an/or impingement of listed fish species during water diversion, short-term disturbance of listed fish species during fish screen and pipeline replacement activities (increased turbidity and potential release of toxins), temporary losses of riverine and riparian habitat, potential long-term effects associated with an increased vulnerability of juveniles to predation at diversion intakes, and direct and indirect impacts on listed fish species from potential construction equipment fluid spills near the Sacramento River.

#### DETERMINATION

Based on the terms and conditions in Biological Opinions No. 1-1-02-F-0036 and SWR-01-SA-5771:JCB, the Department has determined that the project is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code Section 2081(b) and (c). Specifically, the Department finds that the take of Delta smelt, Sacramento River winter-run chinook salmon and Central Valley spring-run chinook salmon will be incidental to an otherwise lawful activity (i.e. expansion of the existing BBWTP), and the mitigation measures identified in the biological opinions will minimize and fully mitigate the impacts of the authorized take on the above-listed species. The mitigation measures contained in the biological opinions include, but are not limited to, the following:

1. The primary effects of upgrading the fish screens are beneficial. Significant reduction and continued minimization of potential project effects to Delta smelt, Sacramento River winter-run chinook salmon, and Central Valley spring-run chinook salmon from entrainment and/or impingement as a result of increased water diversions at the BBWTP are achieved with replacement of the fish screens to meet Department requirements. The screen requirements of 1.75 mm slot size conform to steelhead fry criteria and a 0.2 fps approach velocity conform to Delta smelt criteria.
2. Sweeping velocities will meet Department fish screen criteria.
3. In-water (in-stream) construction below ordinary high water would be limited to the period between August 1 and October 15.
4. Sediment removal would be conducted using suction dredging, which would minimize the potential of re-suspending sediment in the water column. A turbidity curtain would also be deployed during fish screen replacement to further minimize the dispersion of suspended sediment. The curtain will be removed upon completion of construction after suspended sediment has settled out of the water column.

5. All construction equipment would be checked throughout the construction period for the appearance of any fluid leaks.
6. To ensure potential construction equipment spills are immediately contained, a Spill Prevention, Containment, and Counter-measure Plan (SPCCP) would be implemented during construction. The SPCCP would specify that hazardous material spill kits would be available on site during construction. In addition, minimization measures stipulated in the Department Lakebed and Streambed Alteration Agreement # R2-2001-551 issued for the installation of the fish screens and levee construction activity would further ensure the protection of aquatic natural resources. The Regional Water Quality Control Board would also include water quality protection measures, best management practices, and erosion control measures that would be implemented during placement of the fish screens, and installation of the new pumps and new 42-inch pipeline through the levee.
7. The fish screens would meet current design criteria for avoiding conditions known to enhance predation.
8. Staging areas for heavy equipment and construction material will be established so that inadvertent spills of oil, grease, asphalt, or other hazardous material will not be discharged into any stream course or catch basin.

Based on the Department's consistency determination, the City of West Sacramento will not need to obtain authorization under CESA for incidental take of Delta smelt, Sacramento River winter-run chinook salmon, and Central Valley spring-run chinook salmon in constructing and operating the project, provided the project is constructed and operated as it is described in Biological Opinions SWR-01-SA5771:JCB and 1-1-02-F-0036. A new consistency determination or a CESA incidental take permit must be obtained if the project and/or take avoidance and mitigation requirements for the project are changed from the description in the biological opinions.

The Department requests that copies of the annual or periodic monitoring reports, or other circulated materials relevant to the project's effects on Delta smelt, Sacramento River winter-run chinook salmon, and Central Valley spring-run chinook salmon, be submitted to Terry Roscoe at the Department's Sacramento Valley-Central Sierra Region Office, 1701 Nimbus Rd., Rancho Cordova, CA 95670.



**DEPARTMENT OF FISH AND GAME****CONSISTENCY DETERMINATION****Fish and Game Code Section 2080.1****CESA No. 2080-2003-016-03**

**PROJECT:** Chevron Pipeline Company's KLM Pipeline Repair

**LOCATION:** Camino Diablo and Vasco Roads, Contra Costa County

**NOTIFIER:** Geoff Monk on behalf of Chevron Pipeline Company

**BACKGROUND**

On June 27, 2003, the U.S. Fish and Wildlife Service (Service) issued Biological Opinion No. 1-1-03-F-0208 for the Chevron Pipeline Company repair of the Kettleman Los Medanos (KLM) pipeline at milepost 161.85, describing the project actions and setting forth measures to mitigate impacts to the San Joaquin kit fox (*Vulpes macrotis mutica*) and its habitat, listed under the California Endangered Species Act, Fish and Game Code Sections 2050 *et seq.* ("CESA"). On July 17, 2003, the Director of the Department of Fish and Game (DFG) received a notice requesting that DFG find the federal Biological Opinion consistent with CESA pursuant to section 2080.1 of the Fish and Game Code.

Chevron's repair project is located at milepost 161.85 of the Chevron KLM pipeline southeast of the intersection of Vasco Road and Camino Diablo Road in eastern Contra Costa County. The pipeline will be excavated to locate welds to be repaired. In addition, the proposed project will require access roads, staging areas, and construction areas. The proposed repair project will result in the loss of 2.2 acres of habitat for the San Joaquin kit fox. Chevron Pipeline Company has committed to compensating for this loss by permanently protecting more than 2.4 acres of suitable kit fox habitat in eastern Contra Costa County, east of Kirker Pass Road, Marsh Creek Road, and Morgan Territory, north of the Alameda/Contra Costa County line and west of State Route 4/County Road J 4, on or before June 27, 2004.

**DETERMINATION**

DFG has determined that federal Biological Opinion No. 1-1-03-F-0208 is consistent with CESA because the project and mitigation measures it describes meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. Important to DFG's findings are several measures

from the Biological Opinion that address expected or potential impacts to San Joaquin kit fox. These include, but are not limited to, the following:

1. Chevron will compensate for the loss of 2.2 acres of potential habitat associated with the repair project by permanently protecting other suitable habitat at a 1.1-to-1 mitigation-to-impact ratio on or before June 27, 2004 at a site approved by the Service. This measure will result in the permanent protection of more than 2.4 acres of habitat.
2. Conservation measures identified in the Service's *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* will be fully implemented, including but not limited to, revegetation of disturbed areas with native plant species, covering of all steep walled holes and trenches, minimization of night time construction, and a 20 mph speed limit.

Pursuant to Section 2080.1 of the Fish and Game Code, no incidental take authorization under CESA will be required for incidental take of San Joaquin kit fox for the project as it is described in the biological opinion, provided Chevron complies with the mitigation measures and other conditions described in the biological opinion. However, if there are any substantive changes to the project, including changes to the mitigation measures, or if the Service amends the biological opinion, Chevron will be required to obtain a new Consistency Determination or a CESA incidental take permit from DFG.

**DFG requests that copies of the annual or periodic monitoring reports, or other circulated materials relevant to the project's effects on San Joaquin kit fox be submitted to the DFG's Central Coast Regional Office.**

**DEPARTMENT OF FISH AND GAME****CESA CONSISTENCY DETERMINATION FOR****Interstate 5/Santa Clara River Bridge****Replacement Project Expanded Work Area****Los Angeles County**

The Department of Fish and Game ("Department") received notice on August 12, 2003 that the California Department of Transportation ("Caltrans") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of expanding the work area for the Santa Clara River Bridge replacement project on Interstate 5 in Los Angeles County. The bridge is being replaced due to excessive scour damage which has compromised the overall integrity of the bridge.

The U.S. Fish and Wildlife Service (“USFWS”), on December 26, 2000, issued to the Federal Highway Administration a no jeopardy federal biological opinion (1-8-00-F/C-68) which considers the Federally and State endangered least Bell’s vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax trailii extimus*), and unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) and authorizes incidental take. Caltrans reinstituted consultation with the USFWS to cover impacts that will result from the additional work area needed for continued construction at the site. The USFWS issued biological opinion number PAS 148.156.215 on August 1, 2003.

Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination on whether the federal biological opinion PAS 148.156.215 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, Caltrans will not be required to obtain an incidental take permit under CESA for the proposed project.

## DEPARTMENT OF FISH AND GAME

### CONSISTENCY DETERMINATION FOR SR 299 Sacramento River Bridge Replacement Project Shasta County

On August 18, 2003, the Department of Transportation (“Caltrans”) notified the Department of Fish and Game (“Department”) that Caltrans proposes to rely on the biological opinion prepared by the National Marine Fisheries Service (“NOAA Fisheries”) to carry out a project that could adversely affect aquatic species protected under both the federal Endangered Species Act and California Endangered Species Act (“CESA”). The project is the replacement of the State Route 299 Bridge over the Sacramento River as well as other widening and repaving improvements to SR299 in Shasta County.

On August 20, 2002, NOAA Fisheries issued to the Federal Highway Administration (“FHWA”) a “no jeopardy” biological opinion (SWR-01-SA-5638:HLB) which considers the project’s impacts to the state listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and state listed threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) and authorizes incidental take.

Pursuant to Fish and Game Code section 2080.1, Caltrans is requesting that the Department determine that the biological opinion is consistent with CESA. If the Department determines that the federal biological

opinion is consistent, Caltrans will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

## DEPARTMENT OF HEALTH SERVICES

### NOTICE OF GENERAL PUBLIC INTEREST

#### INTENT TO INTRODUCE A NEW RATE METHODOLOGY FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS THAT HAVE A SCOPE-OF-SERVICE CHANGE

This notice is being given to provide information of public interest with respect to a new rate methodology for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). It is the intent of the Department of Health Services (DHS) to submit an amendment to California’s Medicaid State Plan, to introduce a new rate methodology for FQHCs and RHCs that have a scope-of-service change. This new rate methodology, to be effective July 1, 2003, is pursuant to Section 1396a(aa) of title 42 of the United States Code.

#### PROSPECTIVE PAYMENT REIMBURSEMENT

DHS intends to submit new language to the California State Plan defining the rate methodology to be used for existing facilities that have a scope-of-service change covered under Section 1396a(aa) as cited above.

#### PUBLIC REVIEW

The proposed amendment to the California State Plan, which details the changes discussed above, is available for review at local county welfare offices throughout the State. Copies of the proposed amendment may be requested and written comments may be sent to Timothy Matsumoto, Chief, Rate Analysis Unit, Department of Health Services, MS 4600, P.O. Box 942732, Sacramento, CA 94234-7320.

## DEPARTMENT OF HEALTH SERVICES

### NOTICE OF GENERAL PUBLIC INTEREST

#### INTENT TO INTRODUCE A NEW RATE METHODOLOGY FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS THAT RELOCATE THEIR FACILITIES

This notice is being given to provide information of public interest with respect to a new rate methodology for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). It is the intent of the Department of Health Services (DHS) to submit an

amendment to California's Medicaid State Plan, to introduce a new rate methodology for FQHCs and RHCs. This new rate methodology, to be effective July 1, 2003, is pursuant to Section 1396a(aa) of title 42 of the United States Code.

#### PROSPECTIVE PAYMENT REIMBURSEMENT

DHS intends to submit new language to the California State Plan defining the rate methodology to be used for the relocation of an existing facility covered under Section 1396a(aa) as cited above.

#### PUBLIC REVIEW

The proposed amendment to the California State Plan, which details the changes discussed above, is available for review at local county welfare offices throughout the State. Copies of the proposed amendment may be requested and written comments may be sent to Timothy Matsumoto, Chief, Rate Analysis Unit, Department of Health Services, MS 4600, P.O. Box 942732, Sacramento, CA 94234-7320.

### DECISION NOT TO PROCEED

#### BOARD OF EQUALIZATION

##### Title 18. Public Revenue

#### NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code section 11347, the State Board of Equalization has decided not to proceed with Regulation 1591, Medicines and Medical Devices, in Title 18, Division 2, Chapter 4, of the California Code of Regulations (Notice No. Z-02-1008-02, published October 18, 2002, No. 42Z, page 2028.). The State Board will initiate a new notice regarding the proposal to amend a regulation pertaining to the same or similar subject matter on August 29, 2003.

#### DEPARTMENT OF SOCIAL SERVICES

#### NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code section 11347(a), CDSS hereby notices that it has decided not to proceed with the proposed regulatory action in the Manual of Policies and Procedures Sections 42-181.1 and .2; Section 40-710.66; Sections 42-711.5, .6, and .8; Sections 42-721.1 and .4; Sections 44-314.1 and .2; Section 80-301(r); and Section 80-812.6, noticed in Z-02-0820-08, California Regulatory Notice Register 2002, Volume No. 35-Z, dated August 30, 2002, page 1756, CalWORKs 180-Day Family Reunification Extension (ORD #0602-12).

These emergency regulations CalWORKs 180-Day Family Reunification Extension (ORD #0703-17) were recodified as emergency regulations by the Secretary of State effective July 29, 2003 and to be heard at the October 15, 2003, public hearing.

### PROPOSITION 65

#### CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

#### SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (Proposition 65)

#### NOTICE OF INTENT TO LIST CHEMICAL Extension of Public Comment Period August 19, 2003

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65.

On August 8, 2003, OEHHA published a notice in the *California Regulatory Notice Register* (Register 03, No. 32-Z) announcing its intent to list *fumonisin B<sub>1</sub>* under Proposition 65 as a chemical known to the state to cause cancer in accordance with the regulatory criteria in Section 12306 of Title 22 of the California Code of Regulations. The publication of the notice initiated a 30-day public comment period which would have closed on September 8, 2003. OEHHA has received a request from an interested party seeking an extension of the comment period to allow for the submittal of complete and relevant scientific information. OEHHA hereby extends the public comment period for *fumonisin B<sub>1</sub>* to 5 p.m., **Wednesday, October 8, 2003.**

Written comments provided in triplicate, along with supporting information, may be submitted to:

Ms. Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
Street Address: 1001 I Street  
Sacramento, California 95814  
Mailing Address: P.O. Box 4010  
Sacramento, California 95812-4010  
Fax No.: (916) 323-8803  
Telephone: (916) 445-6900

**In order to be considered, comments must be postmarked (if sent by mail) or received at**

OEHHA (if hand-delivered or sent by fax) by  
5 p.m., Wednesday, October 8, 2003.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### CALIFORNIA ENERGY COMMISSION

##### Appliance Efficiency

This certificate of compliance makes permanent the emergency regulatory action (OAL file no. 03-0320-06E) that amended the Commission's appliance efficiency regulations.

Title 20

California Code of Regulations

AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.3, 1606, 1607, 1608

Filed 08/19/03

Effective 08/19/03

Agency Contact: Jonathan Bles (916) 654-3953

#### CALIFORNIA GAMBLING CONTROL COMMISSION

##### Work Permit Fee Increase

This emergency action amends two regulations in order to implement an increase in the work permit application fee from the current amount of \$75.00 to the new fee of \$250.00.

Title 4

California Code of Regulations

AMEND: 12101, 12122

Filed 08/18/03

Effective 08/18/03

Agency Contact: Herb Bolz (916) 263-0700

#### COUNCIL ON DEVELOPMENTAL DISABILITIES

##### Conflict of Interest Code

This is a Conflict of Interest Code filing that was previously approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2

California Code of Regulations

AMEND: 41000

Filed 08/13/03

Effective 09/12/03

Agency Contact:

Karim AlipourFard (916) 322-5550

#### DEPARTMENT OF HEALTH SERVICES

##### Medi-Cal Subacute Contracts

The regulatory action is the Certificate of Compliance for the emergency regulatory action that dealt with Medi-Cal Subacute Contracts.

Title 22

California Code of Regulations

AMEND: 51215.6

Filed 08/18/03

Effective 08/18/03

Agency Contact:

Michelle L. Tedrow (916) 653-1747

#### DEPARTMENT OF WATER RESOURCES

##### Flood Protection Corridor Program

This action adopts Chapter 2.7.1, "Flood Protection Corridor Program of the Costa-Machado Water Act of 2000." This action is the resubmittal of previously withdrawn OAL file number 03-0225-13S.

Title 23

California Code of Regulations

ADOPT: 497.1, 497.2, 497.3, 497.4, 497.5, 497.6, 497.7, 497.8, 467.9, 497.10, 497.11, 497.12

Filed 08/19/03

Effective 08/19/03

Agency Contact: Earl Nelson (916) 654-3620

#### FAIR POLITICAL PRACTICES COMMISSION

##### State and Local Recall Elections

This action adopts definitions concerning Recall Elections. The action is submitted for filing with the Secretary of State and printing only.

Title 2

California Code of Regulations

ADOPT: 18531.5

Filed 08/14/03

Effective 08/14/03

Agency Contact: Hyla Wagner (916) 322-5660

#### FISH AND GAME COMMISSION

##### Inseason Sport Groundfish, Conformance with Federal Regulations

This emergency regulatory action conforms California's sport fishing regulation for groundfish with recently approved inseason changes to federal groundfish regulations.

Title 14

California Code of Regulations

AMEND: 27.82, 27.83

Filed 08/13/03

Effective 09/01/03

Agency Contact: John M. Duffy (916) 653-4899



**PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
CalPERS Contracting Agency Termination**

This Certificate of Compliance amends the procedure for a contracting agency to terminate health benefits pursuant to the Public Employees' Medical and Hospital Care Act (PEMHCA). (Previous OAL file #03-0325-06E)

Title 2  
California Code of Regulations  
AMEND: 599.515  
Filed 08/18/03  
Effective 08/18/03  
Agency Contact: Joe Parilo (916) 326-3484

**SAN FRANCISCO BAY CONSERVATION AND  
DEVELOPMENT COMMISSION  
San Francisco Bay Plan Amendment**

This Bay Plan Amendment revises the water quality findings and policies. It addresses tidal flats; conservation and restoration of water surface area and volume to protect and improve water quality; new project siting, design, construction, and maintenance to prevent or minimize discharge of pollutants into the Bay; coordination with other agencies when considering a project in an area polluted with toxic or hazardous substances; support of other agencies in developing nonpoint source pollution control programs; siting and design of new developments so as to be consistent with stormwater permits and stormwater management guidelines and with protection of the Bay; and, use of native vegetation buffer areas as part of a project .

Title 14  
California Code of Regulations  
AMEND: 11900  
Filed 08/14/03  
Effective 08/14/03  
Agency Contact: Lisa Sniderman

**STATE WATER RESOURCES CONTROL BOARD  
Compliance Schedule Policy**

The Los Angeles Regional Water Quality Control Board amended the Water Quality Control Plan for the Los Angeles Region to authorize the inclusion of compliance schedules in National Pollution Discharge Elimination System (NPDES) permits where it is infeasible for an existing discharger to achieve immediate compliance with an effluent limitation specified to implement a new, revised, or newly interpreted water quality standard. In addition, the regional board may establish a compliance schedule to implement a total maximum daily load (TMDL) adopted as a single permitting action (i.e., through one NPDES permit). This filing is subject to limited review by the Office of Administrative Law pursuant to section 11353 of the Government Code.

Title 23  
California Code of Regulations  
ADOPT: 3939.3  
Filed 08/18/03  
Effective 08/18/03  
Agency Contact: Joanna Jensen (916) 657-1036

**STATE WATER RESOURCES CONTROL BOARD  
Water Quality Control Plan, Central Valley Region**

Regional Board Resolution No. R5-2002-0127, adopted on July 19, 2002, amended Water Quality Objectives by establishing the following site-specific pH and turbidity objectives for Deer Creek in El Dorado and Sacramento Counties: The pH of receiving water shall not be depressed below 6.5 nor raised above 8.5. When the dilution ratio for discharges is less than 20:1 and where natural turbidity is less than 1 Nephelometric Turbidity Unit (NTU), discharges shall not cause the receiving water daily average turbidity to exceed 2 NTUs or daily maximum turbidity to exceed 5 NTUs. Where natural turbidity is between 1 and 5 NTUs, discharges shall not cause receiving water daily average turbidity to increase more than 1 NTU or daily maximum turbidity to exceed 5 NTUs. Where discharge dilution ratio is 20:1 or greater, or where natural turbidity is greater than 5 NTUs, the general turbidity objectives shall apply.

Title 23  
California Code of Regulations  
ADOPT: 3944  
Filed 08/14/03  
Effective 08/14/03  
Agency Contact: Joanna Jensen (916) 657-1036

**STATE WATER RESOURCES CONTROL BOARD  
Incorporate a WDR waiver Policy for certain  
Specific Discharges**

This basin plan amendment establishes a waste discharge requirement waiver policy for specified types of discharges. Discharges are included in the policy if the Regional Board has determined that they are not against the public interest, and if the discharge adheres to the stated mandated conditions. For each specific type of discharge, it was determined that it would not be against the public interest under one or more of the following circumstances: (1) the type of discharge is effectively regulated by another public agency; (2) the type of discharge does not adversely affect the quality or the beneficial uses of the waters of the State, or (3) the type of discharge is not readily amenable to regulation through adoption of waste discharge requirements, but warrants Regional Board oversight to ensure compliance with the mandated conditions. Each type of discharge included in the Policy is classified into one of two categories based on the degree of potential threat to water quality or beneficial uses of affected waterbodies. For Category

1 waivers, waste discharge requirements for a specific discharge shall be considered waived only after enrollment in accord with procedures established by the Regional Board. The Regional Board will determine compliance with the Category 1 waiver conditions using a program that includes on-site inspections and/or review of the records of other public agencies that regulate these discharges. For Category 2 waivers, enrollment is not necessary. The Regional Board will assess compliance with Category 2 waiver conditions by means of surveys or other indirect methods.

**Title 23**

California Code of Regulations

ADOPT: 3989

Filed 08/19/03

Effective 08/19/03

Agency Contact: Greg Frantz (916) 341-5553

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN APRIL 16, 2003  
TO AUGUST 20, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

07/01/03 AMEND: 1038

05/08/03 REPEAL: 121, 122, 123, 124, 125, 125.5, 126, 127, 128, App. A (Form 1013)

**Title 2**

08/18/03 AMEND: 599.515

08/14/03 ADOPT: 18531.5

08/13/03 AMEND: 41000

08/01/03 ADOPT: 22100, 22110, 22120, 22130

07/29/03 AMEND: 18404.1

07/14/03 AMEND: Chapter 55, Section 54400

07/14/03 AMEND: 649.11

07/14/03 AMEND: 56800

07/07/03 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2

06/19/03 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145

06/16/03 ADOPT: 18530.2

06/13/03 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166,

1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1

06/12/03 ADOPT: 18329.5

06/12/03 AMEND: 1859.77.2

06/12/03 AMEND: 1555

06/10/03 ADOPT: 18702.5 AMEND: 18702, 18702.1

06/04/03 ADOPT: 649.23, 649.24, 649.25

05/08/03 AMEND: 2970

05/07/03 ADOPT: 471.1 AMEND: 470, 470.1, 471, 472, 17502, 17520

05/07/03 AMEND: 547.80, 17030, 17111, 17112, 17151 REPEAL: 547.81, 17434

05/01/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153

04/28/03 AMEND: 1897

04/21/03 ADOPT: 1185.02, 1186 AMEND: 1181.1, 1183, 1183.01, 1185, 1185.01, 1185.02, 1185.1, Article 6 title. REPEAL: 1185.2, 1186, 1186.1, 1186.2, 1186.3, 1188.5

**Title 3**

08/12/03 AMEND: 4500

07/29/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4, 760.5, 760.6, 760.7, 760.8, 760.9

07/28/03 ADOPT: 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3663.5

07/24/03 AMEND: 3417(b)

07/10/03 AMEND: 3700(c)

07/08/03 AMEND: 3700(c)

07/03/03 ADOPT: 755, 755.1, 755.2, 755.3, 755.4, 755.5, 755.6, 756, 756.1, 756.2, 756.3, 757, 758, 758.1, 759 AMEND: 753.2 REPEAL: 757, 759, 759.1, 759.2, 759.3, 759.4, 759.5

06/26/03 AMEND: 3417(b)

06/12/03 AMEND: 3423(b)

06/03/03 AMEND: 3417

06/02/03 REPEAL: 796

05/28/03 ADOPT: 1392.12

05/22/03 AMEND: 6860

05/19/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784

05/05/03 ADOPT: 1310, 1310.1, 1310.2, 1310.3

04/24/03 AMEND: 6000, 6710

04/21/03 AMEND: 3417(b)

04/21/03 AMEND: 3423(b)

**Title 4**

08/18/03 AMEND: 12101, 12122

07/14/03 ADOPT: 10151, 10152, 10153, 10154,  
10155, 10156, 10157, 10158, 10159,  
10160, 10161, 10162  
06/26/03 AMEND: 12100, 12101, 12104, 12105,  
12120, 12122, 12124, 12126, 12128,  
12130, 12132, 12140, 12142  
06/16/03 ADOPT: 12370  
05/22/03 ADOPT: 12300, 12301, 12302, 12304,  
12305, 12306, 12307, 12308, 12309,  
12310 AMEND: 12301, 12303, 12309

**Title 5**

07/31/03 AMEND: 80014, 80015, 80015.1, 80023  
REPEAL: 80085, 80085.1, 80086, 80087,  
80088, 80412, 80413.2, 80414, 80422,  
80680-80690.1  
07/21/03 ADOPT: 1068-1074  
07/18/03 ADOPT: 80473, 80473.1  
07/03/03 AMEND: 51023.5  
06/20/03 ADOPT: 13075  
06/16/03 ADOPT: 9531, 9532  
05/15/03 ADOPT: 24000, 24001, 24002, 24003,  
24004, 24005, 24006, 24007, 24008,  
24009  
05/01/03 ADOPT: 1218.5 AMEND: 1200, 1204,  
1209, 1211, 1212, 1215, 1216, 1217,  
1217.5, 1219, 1219.5, 1220, 1225  
04/21/03 ADOPT: 11990

**Title 7**

07/23/03 AMEND: 213(i)  
06/03/03 AMEND: 201, 202, 203, 204, 208, 209,  
210, 211, 213, 214, 215, 216, 217, 218,  
219, 220, 221, 222

**Title 8**

08/04/03 ADOPT: 3458 AMEND: 3437  
07/31/03 AMEND: 1532, 1532.1, 1535, 5198,  
5200, 5201, 5207, 5211, 5214, 5218,  
5220  
07/28/03 AMEND: 3016, 3120.6, 2122.0  
07/24/03 AMEND: 1532.1  
07/21/03 AMEND: 5557  
07/11/03 ADOPT: 5248, 5252.1, 5253.1, 5298.1,  
5307, 5308 AMEND: 1504, 5236, 5237,  
5238, 5239, 5240, 5241, 5242, 5243,  
5244, 5245, 5246, 5247, 5251, 5252,  
5253, 5254, 5256, 5257, 5258, 5262,  
5267, 5268, 5269, 5270, 5276, 5277,  
5278, 5279, 5280, 5291, 5292, 5293,  
07/11/03 AMEND: 1504, 1637  
07/03/03 AMEND: 1635, 1710  
07/03/03 ADOPT: 5006.1 AMEND: 5006  
06/26/03 AMEND: 421, 422, 422.1, 423, 424.1,  
424.2, 424.3, 424.4, 425.1, 425.2, 426,  
427.1, 427.2, 427.3, 427.4, 428

06/12/03 ADOPT: 3195, 3195.2, 3195.3, 3195.4  
3195.5, 3195.6, 3195.7, 3195.8, 3195.9,  
3195.10, 3195.11, 3195.12, 3195.13,  
3195.14  
06/09/03 AMEND: 344.30  
06/02/03 AMEND: 4821  
05/30/03 ADOPT: 15220, 15220.1, 15220.2,  
15220.3, 15220.4, 15220.5, 15220.6,  
15220.7, 15220.8 AMEND: 15201,  
15210, 15210.1, 15210.2, 15216, 15430  
05/29/03 AMEND: 5161, 5164  
05/27/03 AMEND: 5214  
05/20/03 AMEND: 9785, 9785.2, 9785.3, 9786,  
9787  
05/07/03 ADOPT: 20400, 20401, 20402, 20403,  
20404, 20405, 20406, 20407, 20408,  
20450  
05/01/03 AMEND: 10106.1, 10107.1, 10111.2  
05/01/03 AMEND: 10122, 10133.15, 10133.16

**Title 9**

06/19/03 ADOPT: 1840.112 AMEND: 1830.215  
06/05/03 ADOPT: 880, 881, 882, 883, 884, 885,  
886, 890, 891, 892  
05/20/03 ADOPT: 7149.1 AMEND: 7174

**Title 10**

08/12/03 AMEND: 2615.3  
08/04/03 ADOPT: 2698.102, 2698.600, 2698.602,  
2698.604 AMEND: 2698.100, 2698.200,  
2698.201, 2698.202, 2698.203, 2698.204,  
2698.205, 2698.206, 2698.207, 2698.208,  
2698.300, 2698.301, 2698.302, 2698.303,  
2698.401, 2698.403, 2698.405, 2698.407,  
2698.500, 2698.201,  
07/31/03 ADOPT: 2699.6612, 2699.6827  
AMEND: 2699.6500, 2699.6600,  
2699.6607, 2699.6611, 2699.6705,  
2699.6715, 2699.6717, 2699.6725,  
2699.6813, 2699.6815, 2699.6819  
07/29/03 AMEND: 5002, 5009, 5010  
07/21/03 ADOPT: 1709.1, 1717.2, 1730.1, 1737.1,  
1737.2, 1738.6 AMEND: 1710, 1717.2,  
1726, 1730, 1732.2, 1737, 1737.1,  
1737.3, 1738, 1738.2, 1738.3, 1738.5,  
1740.1, 1740.4, 1741.1  
07/21/03 ADOPT: 2361  
07/15/03 ADOPT: 2716.1, 2790.1.5, 2805.1.5  
07/14/03 ADOPT: 2020, 2021 AMEND: 250.51  
07/14/03 AMEND: 2190.05, 2190.7  
07/11/03 ADOPT: 2194, 2194.1, 2194.2, 2194.3,  
2194.4, 2194.5, 2194.6, 2194.7, 2194.8  
07/03/03 AMEND: 2498.2  
07/03/03 AMEND: 260.102.14  
06/19/03 AMEND: 5.2001  
06/10/03 ADOPT: 310.156.3 AMEND: 310.114.1  
06/05/03 AMEND: 2695.2

06/03/03 ADOPT: 2615, 2615.1, 2615.2, 2615.3  
AMEND: 2698.99.10, 2698.99.11,  
2698.99.12, 2698.99.13

06/03/03 AMEND: 2509.40, 2509.41, 2509.42,  
2509.43, 2509.44, 2509.45, 2509.46,  
2509.47, 2509.48, 2509.49, 2509.50,  
2509.51, 2509.52, 2509.53, 2509.54,  
2509.55, 2509.56, 2509.57, 2509.58,  
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06/26/03 AMEND: 181.00

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05/06/03 AMEND: 1239

05/01/03 ADOPT: 2273.5 AMEND: 2260, 2261,  
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